

a "three-month periodic basis" pursuant to OFPA B-13.

The Exchange is proposing to amend OFPA B-13 to provide that trading crowds will be evaluated by questionnaire semi-annually rather than quarterly. At this time, the Exchange believes that floor brokers who respond to the surveys will pay greater attention and care in responding if the evaluation were conducted on a semi-annual basis. This is based on the Exchange's belief that quarterly evaluations are overly repetitive. Consequently, the Exchange believes that the proposed change would result in better measurements of trading crowd and Lead Market Maker performance. The Exchange further believes that the proposed change would result in a better allocation of Exchange resources, and that it will serve to enhance the Options Trading Crowd Evaluation Program.

## 2. Statutory Basis

The Exchange 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 and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

The Exchange believes the proposed rule change will impose no 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

Within 35 days of the publication of this notice in the **Federal 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 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, 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. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-95-10 and should be submitted by July 5, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Release No. 34-35822; File No. SR-PHLX-95-33]

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Automatic Execution of National Over-the-Counter Index Options

June 8, 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 11, 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.

<sup>5</sup> 17 CFR 200.30-3(a)(12) (1994).

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

The PHLX proposes to limit the eligibility of National Over-the-Counter Index ("XOC") options for execution through the automatic execution ("AUTO-X") feature of the PHLX's Automated Options Market ("AUTOM") system. Specifically, the PHLX proposes to limit the AUTO-X eligibility of XOC options to XOC series where the bid is \$10 or less. XOC series where the bid is greater than \$10 will no longer be AUTO-X eligible and any such AUTOM-delivered orders will be subject to manual execution.

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*

AUTOM, which has operated on a pilot basis since 1988 and was most recently extended through December 31, 1995,<sup>1</sup> is the PHLX's electronic order

<sup>1</sup> 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);

routing, delivery, execution and reporting system for equity and index options. AUTOM is an on-line system that allows electronic delivery of options orders from member firms directly to the appropriate specialist on the Exchange's trading floor.

Certain orders are eligible for AUTOM's automatic execution feature, AUTO-X.<sup>2</sup> 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 Commission approved the use of AUTO-X as part of the AUTOM pilot program in 1990.<sup>3</sup> In 1991, the Commission approved a PHLX proposal to extend AUTO-X to all equity options.<sup>4</sup> According to the PHLX, the Exchange initially implemented AUTO-X for all equity options and index options. The PHLX notes that in its order approving the extension of AUTO-X to all equity options, the Commission noted that the proposal would enable all PHLX equity options to be eligible for AUTO-X.<sup>5</sup>

Accordingly, the Exchange believes that because extending AUTO-X to all options was not required nor was it filed as mandatory, the Exchange retains the ability to limit its implementation, consistent with the Act. Similarly, the Exchange states that orders for up to 25 contracts are eligible for AUTO-X, but this number is a maximum, such that different PHLX options are subject to a different AUTO-X order size cap.

Notwithstanding this ability, as part of an effort to extend the benefits of automatic execution floor-wide, the Exchange implemented Floor Procedure Advice ("Advice") A-13, "Auto-X

Engagement/Disengagement Responsibility."<sup>6</sup> The PHLX states that in Advice A-13 the Exchange adopted an affirmative obligation, punishable by a fine administered pursuant to the PHLX's minor rule plan, that AUTO-X be implemented floor-wide. In that proposal, the Exchange cited the goal of maximizing floor-wide use of AUTO-X and ensuring specialist activity during adverse market conditions. The PHLX does not believe that these goals are eroded by the proposal at hand, which is limited to certain series in one index option.

In direct contrast to the Commission's concerns with options exchanges limiting the availability of execution systems to out-of-the-money call series,<sup>7</sup> The PHLX is limiting AUTO-X to the most active around-the-money series. The Exchange also included in Advice A-13 the ability to disengage AUTO-X in extraordinary circumstances with Floor Official approval. Thus, the Exchange recognized that conditions may exist which warrant the limitation of AUTO-X.

At this time, the PHLX proposes to limit the use of AUTO-X for XOC orders. Under the proposal, only those XOC series where the bid is at or below \$10 at the end of the trading day will be eligible for AUTO-X, effective the next trading day. The PHLX states that these lower-priced XOC series generally receive the most interest from public customers. Accordingly, the Exchange believes that these series are most appropriate for automatic execution.<sup>8</sup> The Exchange intends to clearly communicate to its membership and AUTOM users the proposed AUTO-X limitation for XOC options through an information circular.

The proposal is also in response to recent volatility in the over-the-counter ("OTC") markets, which has made it increasingly difficult for specialists and market makers to monitor quotations to

reflect changes in the markets for the underlying securities. The PHLX states that sufficient time is necessary for such adjustments, particularly because participation in AUTOM and AUTO-X is obligatory.

In addition to volatility, the Exchange believes that a specialist's obstacles in hedging XOC positions with underlying OTC securities, which is particularly relevant to the XOC, also warrants the proposed AUTO-X limitation. For example, in order to hedge XOC exposure, positions in OTC securities are typically purchased and sold. The PHLX states that the aggregate bid/ask differential for the XOC's component securities is often greater than \$5 wide, reflecting the volatility of those markets as well as the relatively high value of the XOC itself.<sup>9</sup> The PHLX states that in recognition of these circumstances, the Commission recently approved an Exchange proposal to widen the quotation spread parameters applicable to the XOC.<sup>10</sup>

Exchange By-Law Article X, "Standing Committee," Section 10-18, "Options Committee," grants authority over all connections and communications on the options floor, such as AUTOM, to be Options Committee, which has authorized the proposed AUTO-X limitation. Pursuant to this authority, the Options Committee has determined, in the interest of maintaining fair and orderly markets, to amend the eligibility of XOC orders for automatic execution.

The Exchange notes that AUTOM users will continue to be afforded the advantages of automatic execution for XOC series priced at low or moderate levels. According to the PHLX, public customers (*i.e.*, "customers" who are not associated with broker-dealer organizations or subject to discretionary authorization by associated persons of broker-dealers) most often choose XOC series priced at \$10 or less for investment.<sup>11</sup> The proposal does not affect the AUTO-X eligibility of any other equity or index option.

In addition, the PHLX notes that it is consistent with the practices of other options exchanges to limit automatic execution eligibility to certain series, such as near-term, at-the-money

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

<sup>2</sup> Orders for up to 100 contracts are eligible for AUTOM and public customer orders for up to 25 contracts are eligible for AUTO-X. See Securities Exchange Act Release No. 32000 (March 15, 1993), 58 FR 15168 (March 19, 1994) (order approving File No. SR-PHLX-92-38).

<sup>3</sup> See Securities Exchange Act Release No. 27599 (January 9, 1990), 55 FR 1751 (January 18, 1990) (order approving File No. SR-PHLX-89-03).

<sup>4</sup> See Securities Exchange Act Release No. 28978 (March 15, 1991), 56 FR 12050 (March 21, 1991) (order approving File No. SR-PHLX-90-34).

<sup>5</sup> See Securities Exchange Act Release No. 28978, *supra* note 4.

<sup>6</sup> See Securities Exchange Act Release No. 29575 (August 16, 1991), 56 FR 41715 (August 22, 1994) (order approving File No. SR-PHLX-91-16). Advice A-13 states that options specialists are responsible for engaging AUTO-X for an assigned option within three minutes of completing the opening or reopening rotation of that option. In addition, the Advice indicates that, under extraordinary circumstances, a specialist may be provided with an exemption from receiving orders through AUTO-X and may disengage the system upon approval by two floor officials.

<sup>7</sup> See The Division of Market Regulation, The October 1987 Market Break (February 1988).

<sup>8</sup> For example, the PHLX states that on trade date January 25, 1995, 40 XOC transactions occurred, 38 of which involved a customer. Only two of these trades involved execution prices greater than \$20, while 10 trades were above \$10 but less than \$20; 28 customer trades were below \$10. The 28 customer trades represented 439 contracts out of a total of 531 contracts.

<sup>9</sup> The bid/ask differential in the underlying securities is determined by adding the bids for such securities and dividing by 100 (the number of securities comprising the XOC) to arrive at the composite bid; and then similarly adding the offers and dividing by 100 to arrive at a composite, or average, offer.

<sup>10</sup> See Securities Exchange Act Release No. 34781 (October 3, 1994), 59 FR 51467 (October 11, 1994) (order approving File No. SR-PHLX-94-28).

<sup>11</sup> See note 7, *supra*. The Exchange notes similar results on trade date February 7, 1995.

series.<sup>12</sup> Thus, for competitive reasons, the Exchange seeks to create a level playing field with respecting automatic execution parameters.

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. Specifically, the Exchange believes that the aforementioned circumstances (volatility and hedging) respecting the XOC warrant an AUTO-X limitation in the interest of maintaining fair and orderly markets. The PHLX notes that option series where the bid is more than \$10 may represent a premium of \$1,000 (\$10 multiplied by 100); accordingly, expensive errors may result from the automatic execution of a high-priced option series before the option quote has been updated to reflect a change in the price of an underlying security. According to the PHLX, in certain cases such trades occur by way of orders from professional investors, which undercut the use of market making capital, and, in turn, detrimentally affect liquidity.

*(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**

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

<sup>12</sup> For example, on the Chicago Board Options Exchange, Inc. ("CBOE"), only the four most active puts and calls in the two near-term months in Nasdaq 100 Index options are eligible for the CBOE's Retail Automated Execution System.

**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 July 5, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

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

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[Release No. 34-35827; File No. SR-Phlx-95-36]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Restrictions on Exercise and the Definition of a European Style Option Respecting Index Options**

June 8, 1995.

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 6, 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 Exchange. The Commission is publishing this notice to solicit comments on the

<sup>13</sup> 17 CFR 200.30-3(a)(12) (1994).

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

<sup>2</sup> 17 CFR 240.29b-4.

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 the time period in Phlx Rule 1006A during which restrictions on the exercise of index options may be in effect, making Rule 1006A consistent with a joint circular issued by the options exchanges in 1991.<sup>3</sup> Rule 1006A would be amended to substitute the words "business day" for the words "trading day". The Exchange also proposes to delete the remainder of Rule 1006A, which references restrictions on exercise respecting specific index options, namely the Bank Index, Big Cap Index and Value Line Index. Lastly, the Phlx proposes to amend Rule 1000A(b)(12) to correct the definition of "European style option" to state that such option contracts can be exercised only on the day it expires. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 Exchange included statements concerning the purpose of and basis for 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 section (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 amend Phlx Rule 1006A to make it consistent with a joint circular issued by the options exchanges in 1991 regarding exercise restrictions, and similar provisions imposed by the other options exchanges and the Options Clearing Corporation ("OCC"). The Exchange proposes to amend Rule 1006A to state that restrictions on exercise may be in effect until the opening of business on the last business day (generally Friday) prior to expiration (Saturday). As a result of this proposed rule change, restrictions on exercise would be permissible on the

<sup>3</sup> See e.g., CBOE Regulatory Circular RG91-11, dated January 14, 1991.