

series.¹² 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.

¹² 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.¹³

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"),¹ and Rule 19b-4 thereunder,² 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

¹³ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1).

² 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 1991.³ 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

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

last trading day (Thursday) for expiring Am-settled options.

Currently, Rule 1006A provides that restrictions on exercise may be in effect until the opening of business on the last trading day before the expiration date. The last trading day before expiration is generally Friday, for PM-settled options and Thursday for AM-settled options. Thus, the current language would permit restrictions on exercise to remain in effect until the opening of business on Friday for PM-settled options, but only until Thursday for AM-settled options. 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 before expiration, which is generally Friday for all index options, whether AM or PM-settled. As a result, restrictions on exercise would be permissible for all index options on Thursday, but not Friday.

In support of this proposal, the Exchange notes that OCC Rules permit such restrictions on Thursday, because OCC provisions refer to the last "business" day.⁴ Additionally, the proposed rule change is consistent with a recent proposal by the Chicago Board Options Exchange, Incorporated ("CBOE").⁵

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. These index options are European style, such that exercise is prohibited, by definition, until its expiration date. Any restrictions on exercise which may be imposed cannot be in effect on expiration (Saturday), because Rule 1006A would only permit such restriction until the opening on Friday. Thus, the restrictions on exercise in Rule 1006A have no effect on the ability to exercise a European style index option, which by definition, cannot be exercised until Saturday.

Following a review of index rules, the Phlx has determined that Rule 1000A requires an amendment to correct the definition of "European style option" to correspond to the comparable equity option provision in Rule 1000(b)(35), as well as the rules of the other options exchanges and the OCC.⁶ Specifically, a

European style option can only be exercised on its expiration date.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, and protect investors and the public interest, by coordinating the Exchange's ability to impose restrictions on the exercise of index options with the provisions of other options exchanges and the OCC.

(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.

(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

Because the foregoing rule change constitutes a stated policy, practice or interpretation with respect to the meaning, administration or enforcement of an existing rule of the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. 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.

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 Phlx. All submissions should refer to SR-Phlx-95-36 and should be submitted by July 5, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35821; File No. SR-NYSE-95-11]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Adoption of Rule 440A ("Telephone Solicitation—Recordkeeping") and an Interpretation With Respect to Proposed Rule 440A

June 7, 1995.

On March 22, 1995, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "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 adopt new Rule 440A ("Telephone Solicitation-Recordkeeping") and to add an interpretation with respect to the meaning and administration of proposed Rule 440A.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35597 (April 12, 1995), 60 FR 19427. No comments were received on the proposal.

I. Description of the Proposal

The proposed rule would require members and member organizations that engage in telephone solicitations to maintain a centralized list of persons who do not wish to receive telephone solicitations. The Exchange also proposes to add an interpretation concerning the meaning and administration of proposed Rule 440A with respect to compliance with the Federal Communications Commission ("FCC") and SEC rules relating to telemarketing practices. The Exchange proposes to publish the interpretation as an Interpretation Memorandum for

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁴ See OCC By-Laws, Article VI, Section 17, Exercise Restrictions.

⁵ See Securities Exchange Act, Release No. 35307 (January 31, 1995), 60 FR 7606 (February 8, 1995).

⁶ See OCC By-Laws, Article XVII, Section 2(b), General Rights and Obligations of Holders and Writers of Index Options.