

requirement should help the NYSE ensure that stops are only granted in a minimum variation market when the benefit (*i.e.*, price improvement) to orders being stopped far exceeds the potential for harm to orders on the specialist's book. *Second*, the Commission expects the NYSE to take appropriate action in response to any instance of specialist non-compliance with the stopping stock procedures in minimum variation markets. *Third*, the Commission emphasizes that Floor Official approval of an increase in the size of the stopped order or stopping more than 5000 shares must not be routine. The Commission expects the NYSE to continue to monitor compliance with these aspects of the stopping stock program through its special surveillance procedures.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³³ that the proposed rule change (SR-NYSE-95-14) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁴

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36395; File No. SR-PHLX-95-58]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Trader Registration and the Use of the Series 7A Examination

October 20, 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 September 22, 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. On October 6, 1995 the Exchange submitted Amendment No. 1 to the proposed rule change.¹ 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, pursuant to Rule 19b-4 of the Act, proposes to adopt paragraph (d) to Rule 604, Registration and Termination of Registered Representatives, to require registration of persons who solicit or handle business in securities and are compensated by a member or participant organization for which the Phlx is the Designated Examining Authority ("DEA"). Only persons not otherwise required to register with the Exchange would be subject to Rule 604(d). Registration pursuant to the proposed rule would require filing Form U-4, Uniform Application for Securities Industry Registration or Transfer, with the Exchange. The Phlx also proposes to amend paragraph (c)(ii) of Rule 604, which names the Series 7A as the examination appropriate for Limited Registration/Floor Members,² to clarify that this is the appropriate examination for such members only, not all members who conduct a public business from the equity trading floor.

The text of the proposed rule change is as follows [new text is italicized]:

Rule 604 Registration and Termination of Registered Representatives

(c) Limited Registration/Floor Members

* * *

(ii) The appropriate examination *for a floor member* to conduct a public business from the equity trading floor is the Series 7A examination.

(d) Every person who is compensated directly or indirectly by a member or participant organization for which the Exchange is the Designated Examining Authority ("DEA") for the solicitation or handling of business in securities, including trading securities for the account of the member or participant organization, whether such securities are those dealt in on the Exchange or those dealt in over-the-counter, who is not otherwise required to register with the Exchange by paragraph (a) of this rule or another rule shall file Form U-4, Uniform Application for Securities Industry Registration or Transfer, with the Exchange.

² A Limited Registration/Floor Member is a member who conducts a public business that is limited to accepting orders from professional customers for execution on the trading floor. The Series 7A examination is a module of the Series 7 (the General Securities Registered Representative Examination) developed to test the knowledge of relevant securities laws and Exchange rules required of such members. See Securities Exchange Act Release No. 32698 (July 29, 1993), 58 FR 41539 (August 4, 1993) (File No. SR-NYSE-93-10).

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

1. Purpose

Currently, the 600 series of rules generally govern registration of members.³ Rule 604(a) requires Series 7 Registered Representatives to register with the Exchange on Form U-4. In addition, the Exchange requires Limited Registration/Floor Members to register pursuant to Rule 604(c). However, there is no requirement for proprietary "upstairs" traders (*i.e.*, those who trade for the firm's own account) to register with the Exchange. This proposal adopts such a requirement as Rule 604(d).

The Commission recently noted the absence of such a requirement during a Commission oversight examination of a Phlx participant organization. The Exchange has thus determined to require a firm's proprietary traders to register with the Exchange and believes that this requirement will enhance the Exchange's examination program. Specifically, Exchange files would contain a complete record of those trading for a member of participant organization, not just persons handling customer accounts. The Form U-4 would provide background information on such traders as well as a basis for further Exchange research if needed.

Similar to Rules 604(a) and (c), the proposal would require registration on Form U-4. This form is currently used in the Exchange's membership application process for prospective members or participants, as well as the officers, shareholders and directors of such organizations. In order to prevent duplicative registration, the proposal would not apply to persons who are otherwise registered with the Exchange.

The proposal also seeks to amend paragraph (c)(ii) of Rule 604. The

³ See, *e.g.*, Rule 600, Addresses of Members.

³³ 15 U.S.C. 78s(b)(2).

³⁴ 17 CFR 200.30-3(a)(12).

¹ See letter from Gerald O'Connell, First Vice President Market Regulation and Trading Operations, Phlx, to Glen Barrentine, Senior Counsel, SEC, dated October 3, 1995. In Amendment No. 1 the Exchange explained the purpose of its proposed amendment to Rule 604(c)(ii).

purpose of the amendment is to add limiting language to Rule 604(c)(ii) to clarify that the Series 7A is the appropriate examination for Limited Registration/Floor Members, not all members conducting a public business from the equity trading floor. Although the organization and intent behind the adoption of Rule 604 indicate that paragraph (c) and sub-paragraph (ii) thereunder apply only to Limited Registration/Floor Members,⁴ on its face the text of 604(c)(ii) can be construed to apply to all members conducting a public business. The amendment would remove this ambiguity from Rule 604(c)(ii) by naming floor members specifically as the parties for whom the Series 7A is the appropriate examination.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act⁵ in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest by enhancing the Exchange's examination process.

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 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.

⁴ See Securities Exchange Act Release No. 35258 (January 20, 1995), 60 FR 5449 (January 27, 1995) (File No. SR-Phlx-94-15) (order approving the Phlx's adoption of the Limited Registration/Floor Member status and its use of the Series 7A for such members).

⁵ 15 U.S.C. 78f(b)(5).

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 Exchange. All submissions should refer to File No. SR-Phlx-95-58 and should be submitted by November 16, 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. 34-36402; File No. SR-OPRA-95-3]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to Extend the Scope and Duration of OPRA's Current Usage-Based Fee Pilot

October 20, 1995.

Pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Exchange Act"), notice is hereby given that on October 5, 1995, the Options Price Reporting Authority ("OPRA")¹ submitted to the Securities and Exchange Commission ("SEC" or

¹ OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3-2 thereunder. Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the five member exchanges. The five exchanges which agree to the OPRA Plan are the American Stock Exchange ("AMEX"); the Chicago Board Options Exchange ("CBOE"); the New York Stock Exchange ("NYSE"); the Pacific Stock Exchange ("PSE"); and the Philadelphia Stock Exchange ("PHLX").

"Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotations Information ("Plan"). The amendment extends both the scope and duration of OPRA's current usage-based fee pilot. OPRA has designated this proposal as establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities, permitting the proposal to become effective upon filing pursuant to Rule 11Aa3-2(c)(3)(i) under the Exchange Act. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to extend both the scope and duration of OPRA's current usage-based fee pilot that provides for a usage-based fee as an alternative to OPRA's port-based Dial-up Market Data Service Utilization Fee. The pilot became effective in September 1994, for a period of one year commencing with the time that the first dial-up vendor elected to pay the usage-based fee.²

OPRA is proposing to extend the usage-based fee concept by providing a usage-based fee as an alternative to OPRA's port-based Voice Synthesized Market Data Service Fee and OPRA's device-based Radio Paging Service. In each case, the usage-based fee would be set at the same level that currently applies to the Dial-up Market Data Service.³ The purpose of extending the usage-based alternative to providers of voice synthesized and radio paging service is to accommodate those service providers that have the capability of monitoring usage for all three services and that have indicated to OPRA that they would enjoy certain efficiencies if they could be charged for all three services on the same basis.⁴

OPRA does not expect the availability of these usage-based fees to have any

² The first dial-up vendor elected to pay this fee in June 1995. Based on the terms of the pilot, therefore, it will expire on June 30, 1996, unless extended.

³ The usage-based fee has been established at \$0.02 for each "quote packet" consisting of any one or more of the following values: last sale, bid/ask, and related market data for a single series of options or a related index accessed via the service. All inquiries, except those for historical information, would be included for purposes of calculating the fee. For this purpose, options market information becomes "historical" upon the opening of trading on the next succeeding trading day of that market.

⁴ As with the current usage-based Dial-up Market Data Service Utilization Fee, persons that elect to pay the usage-based Voice Synthesized Market Data

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