

found a proposed Consolidated Tape Association retransmission fee consistent with the Exchange Act.¹⁸

In addition, the appropriate scope of fees was addressed in a denial of access petition filed by Instinet against the National Association of Securities Dealers, Inc. ("NASD").¹⁹ The NASD attempted to impose certain vendor and subscriber fees on the quotation information (referred to as the National Quotation Data Service) sought by Instinet. In its review of the denial of access petition, the Commission noted that in a situation where a monopolistic supplier of market information is in direct competition with vendors in providing such information, there is the potential for the supplier to erect barriers to entry by charging higher fees to vendors of competing information services.²⁰ The Commission determined, therefore, that because Instinet sought to distribute certain quotation information in competition with the NASD, an exclusive processor of that information, the NASD's proposed fees were required to be cost-based to ensure neutrality and reasonableness of the vendor and subscriber fees.²¹

OPRA's proposal will encourage the use of real-time data by reducing the OPRA fees charged to vendors of real-time data. The Commission believes that investment decisions should be based on the most accurate, up-to-date information available. Thus, this proposal marks a step toward making real-time data more accessible to a greater number of market information users. Recent technological innovations have further enhanced the feasibility of providing easy access to real-time market data to a larger segment of the investor community. The Commission encourages OPRA to utilize these new

technologies to encourage additional steps to promote the use of real-time information on a fair, reasonable and non-discriminatory basis.

The Commission recognizes that not all subscribers can afford regular real-time service and, as noted by some commenters, not all subscribers believe their use of market data justifies the cost of such service (even assuming that real-time vendors pass on their savings to their subscribers). As to these subscribers, there is a continued need for access to affordable delayed data. One adverse consequence of the fee restructuring will be to increase the costs to vendors of delayed data which, in turn, may result in a modest increase in the cost of delayed data to subscribers. The Commission has long been committed to protecting the public's right of access to market information and believes that any modest increase in costs to subscribers of delayed data under OPRA's proposed fee restructuring will not act as a barrier to fair and reasonable access to information for those subscribers. Competition among technology and information providers continues to thrive. Over the past few years, individual inventors have enjoyed unprecedented access to market data through varied media, including CNN, CNBC, satellite services, on-line computer services, the World Wide Web, and the Internet. The Commission believes that those innovations will continue to facilitate the fair and reasonable distribution of delayed data even though redistributors of delayed options data will be required to pay a redistribution fee.

It is therefore ordered, pursuant to Section 11A(a)(3)(B) of the Act,²² that the amendment (S7-8-90) to the OPRA Plan be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.²³

Jonathan G. Katz,

Secretary.

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[Release No. 34-36539; International Series Release No. 895; File No. SR-Phlx-95-47]

**Self-Regulatory Organizations;
Philadelphia Stock Exchange, Inc.;
Order Approving Proposed Rule
Change Relating to Japanese Yen
Quote Spread Parameters**

November 30, 1995.

I. Introduction

On August 22, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposal to widen the quote spread parameters applicable to Japanese yen options. The proposed rule change was published for comment in the Federal Register on September 21, 1995.³ No comments were received on the proposed rule change. This order approves the proposal.

II. Description of the Proposal

The Phlx seeks to widen the quotation spread parameters (bid/ask differentials) applicable to Japanese yen options in light of the increased volatility and value of the underlying currency, the Japanese yen.⁴ The Exchange proposes to change the parameters in Rule 1014(c)(ii) and Floor Procedure Advice ("Advice") F-6, Option Quote Parameters, from \$.000004, \$.000006, and \$.000008 to \$.000006, \$.000009, and \$.000012. Under the proposal, the new quote spread parameters will be reflected in Rule 1014 as follows: no more than \$.000006 between the bid and the offer for each option contract for which the bid is \$.000040 or less; no more than \$.000009 where the bid is more than \$.000040 but does not exceed \$.000160; and no more than \$.000012 where the bid is more than \$.000160.

In its proposal, the Phlx notes that as the yen spot value has risen, the spreads between the bid and the offer in the spot price also have risen. For example, a spot market of 101.50 (bid)–.60 (ask) yen in January 1995 represented \$.009852–.009842 in American terms, which is ten "ticks" wide. Comparatively, a spot market of 85.10–.20 yen in May 1995 represented \$.011751–.011737, which is 14 ticks wide. Similarly, the Exchange states that the spreads in Japanese yen

¹⁸ *Id.* See also 17 CFR 240.11Aa3-1(d) (relating to retransmission of transaction reports or last sale data); 17 CFR 240.11Aa3-1(e) (permitting the imposition of reasonable, uniform charges for the distribution of transaction reports or last sale data).

¹⁹ Securities Exchange Act release No. 20874 (April 17, 1984) ("Instinet case").

²⁰ *Id.* at 40-41.

²¹ *Id.* Although the fee restructuring proposal is not cost-based in the sense described in the Instinet case, the purpose of the restructured fee schedule is fundamentally different. OPRA's proposal is designed to reallocate costs fairly and equitably among all persons that derive a commercial benefit from the information obtained from exchange markets. Because OPRA is not in direct competition with the vendors that will be subject to the redistribution fee, the analysis applied in the Instinet case is not strictly applicable. Although OPRA's posture with respect to the vendors that will be affected by the redistribution fee is different than the relationship between the NASD and Instinet, the Commission continues to have the duty to ensure that OPRA's fees satisfy applicable standards.

²² 15 U.S.C. 78k-1(a)(3)(B).

²³ 17 CFR 240.30-3(a)(29).

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).

³ See Securities Exchange Act Release No. 36239 (September 15, 1995), 60 FR 49032.

⁴ Option quote parameters govern the width of market quotations, establishing the maximum widths between the bid and the offer for an option contract.

futures and forward contracts also have widened.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)⁵ that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts, and, in general, protect investors and the public interest by providing a more efficient and competitive market for foreign currency options.

The Commission believes that the recent significant rise in the value of the yen in relation to the U.S. dollar justifies amending the present applicable quote spread parameters. As the Japanese yen spot value (in relation to the U.S. dollar) has increased, the U.S. dollar value of each yen option contract likewise has increased. However, the quote spread parameters have not previously been adjusted to account for this movement. Setting Japanese yen option quote spread parameters as proposed by the Phlx should continue to facilitate tightly quoted markets without impairing Phlx market makers' ability to provide market depth and liquidity. In addition, the new quote spread parameters should allow the Phlx and Phlx Japanese yen option market makers to compete more effectively with similar over-the-counter-based products.

Finally, the Commission notes that under Phlx Rule 1014, "Obligations and Restrictions Applicable to Specialists and Registered Options Traders," Japanese yen market makers are required to maintain a fair and orderly market and are not permitted to enter into transactions or make bids or offers that are inconsistent with such obligations. Accordingly, the Commission expects the Phlx to monitor trading in Japanese yen options affected by the proposal to ensure that there is adequate market activity in those series and to ensure that market makers are meeting their obligations to maintain fair and orderly markets.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-Phlx-95-47) is approved.

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. 34-36535; File No. SR-AMEX-95-38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the American Stock Exchange, Inc. Relating to Transactions in Currency Warrants by Registered Options Traders

November 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 September 22, 1995, the American Stock Exchange, Inc. ("Amex" 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 September 26, 1995, the Amex filed Amendment No. 1 ("Amendment No. 1") to the proposal.¹ 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 Amex proposes to amend Commentary .12 to Amex Rule 111 (Restrictions on Registered Traders), Commentary .14 to Rule 114 (Registered Equity Market Makers) and Commentary .10 to Rule 958 (Options Transactions of Registered Traders) to provide that proprietary transactions on the Floor in currency warrants shall be governed by, and affected in accordance with, Rule 958. The text of the proposed rule change is available at the Office of the Secretary, Amex 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 Amex 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 Amex 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

The Amex proposes to amend Commentary .12 to Rule 111 (Restrictions on Registered Traders), Commentary .14 to Rule 114 (Registered Equity Market Makers) and Commentary .10 to Rule 958 (Options Transactions of Registered Traders) to provide that proprietary transactions on the Amex Floor in currency warrants, shall be governed by, and effected in accordance with, Rule 958.

In 1992, the Exchange amended its rules to permit regular members to register as a Registered Trader under Rule 958 to engage in supplemental market making activity in stock index warrants and certain other non-options derivative products.² The Exchange enacted these changes to conform its rules to those of other markets, and to provide additional liquidity to the market for the Exchange's Portfolio Depositary Receipts and LOR SuperUnits. Due to the limited purpose of the 1992 rule changes, the Exchange did not seek at that time to extend this treatment to the trading of listed currency warrants by ROTs.

At present, currency warrants are traded on the Floor by Registered Equity Market Makers ("REMMs") under the Exchange's equity trading rules, pursuant to the provisions of Rule 114 (which includes applicable provisions of Rule 111). Under the proposed rule changes, regular members wishing to engage in supplemental market making activity in currency warrants may register as Registered Traders under Rule 958, and would trade for their own account in such securities pursuant to the provisions of that Rule.

In contrast to REMMs trading pursuant to Rules 111 and 114, Rule 958 imposes continuous affirmative market making obligations upon Registered Traders.³ In recognition of this, such

² See Securities Exchange Act Release No. 30768 (June 2, 1992). A Registered Trader under Rule 958 is also referred to as a Registered Options Trader ("ROT").

³ Moreover, due to the derivative pricing of currency warrants, the Exchange believes it is

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⁵ 15 U.S.C. 78f(b)(5) (1988).

⁶ 15 U.S.C. 78s(b)(2) (1988).

⁷ 17 CFR 200.30-3(a)(12) (1993).

¹ See Letter from William Floyd-Jones, Assistant General Counsel, Amex, to Stephen M. Youhn, SEC, dated Sept. 26, 1995. The amendment renumbers two rule provisions that were misstated in the original filing.