

The Commission believes that these requirements will help to ensure that the facilitation exemption will not have an undue market impact on the options or any underlying stock positions.

Third, the facilitation firm is required to promptly provide to the Exchange any information or documents requested concerning the exempted options positions and the positions hedging them, as well as to promptly notify the Exchange of any material change in the exempted options positions or the hedge.

Fourth, neither the member's nor the customer's order may be contingent on "all or none" or "fill or kill" instructions, and the orders may not be executed until the procedures in Exchange Rule 1064(b) have been satisfied and crowd members have been given a reasonable time to participate in the trade.

Fifth, in no event may the aggregate exempted position exceed two times the applicable standard limit, in addition to the standard position limit.<sup>13</sup>

Sixth, the facilitation firm may not increase the exempted options position once it is liquidated, unless approval from the Exchange is again received pursuant to a reapplication.

In summary, the Commission believes that the safeguards built into the facilitation exemption process discussed above should serve to minimize the potential for disruption and manipulation, while at the same time benefiting market participants by allowing member firms greater flexibility to facilitate large customer orders. This structure substantially mirrors the firm facilitation exemption processes that were recently approved for other option exchanges.<sup>14</sup> Accordingly, the Commission believes it is appropriate to extend the benefits of a firm facilitation exemption to non-multiply-listed Phlx options.

In addition, because the other minor rule changes that the Exchange is proposing will make the Phlx's rules clearer and are non-substantive in nature, the Commission believes that they are consistent with Section 6(b)(5) of the Act.

The Commission finds good cause to approve Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of

publication of notice of filing thereof in the Federal Register. Specifically, Amendment No. 1 conforms the Exchange's firm facilitation exemption to the relief recently approved for the other options exchanges. Accelerated approval of the proposed rule change will thereby provide for the desired uniformity of the exchanges' position limit exemptions. Any other course of action could lead to unnecessary investor confusion. In addition, the Chicago Board Options Exchange's proposal was noticed for the entire twenty-one day comment period and generated no responses.<sup>15</sup> Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to the rule proposal. 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 also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-96-19 and should be submitted by October 3, 1996.

#### IV. Conclusion

For the foregoing reasons, the Commission finds that the Phlx's proposal to establish a firm facilitation exemption, as well as the other non-substantive changes to the Phlx's rules, are consistent with the requirements of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2)<sup>16</sup> of the Act, that the proposed rule change (File No. SR-Phlx-96-19), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-23313 Filed 9-11-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37643; File No. SR-Phlx-96-23]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Options Specialist Evaluations

September 5, 1996.

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 July 1, 1996, 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. 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 Exchange, pursuant to Rule 19b-4 of the Act,<sup>1</sup> proposes to update its Options Specialist Evaluation program by adopting a new questionnaire and revising Exchange Rules 509, 511 and 515 regarding the evaluation procedure.

#### 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.

<sup>13</sup> The Commission notes, however, that the firm facilitation exemption is in addition to any other exemption available under the Exchange's rules.

<sup>14</sup> See Securities Exchange Act Release Nos. 36964 (March 13, 1996), 61 FR 11453 (March 20, 1996) (File No. SR-CBOE-95-68); 37178 (May 8, 1996), 61 FR 24523 (May 15, 1996) (File No. SR-PSE-96-10); 37179 (May 8, 1996), 61 FR 24520 (May 15, 1996) (File No. SR-Amex-96-11).

<sup>15</sup> *Id.*

<sup>16</sup> 15 U.S.C. 78s(b)(2) (1988).

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

<sup>1</sup> 17 CFR 240.19b-4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

On December 21, 1995, the Exchange submitted a proposed rule change to the Commission requesting approval for a new options specialist evaluation questionnaire and review procedure.<sup>2</sup> The proposed rule change was withdrawn on March 29, 1996 after Commission staff had requested that the Exchange reconsider its proposed evaluation review procedures.<sup>3</sup> Pursuant to the present filing, the Exchange is resubmitting the same new evaluation questionnaire and is proposing revised procedures for the review process.

Since at least 1978, the Exchange has been evaluating its options specialists based on the same questionnaire in use today. This quarterly survey is a subjective series of questions answered by floor brokers that have traded with the particular specialists over the last quarter. One of the purposes of this filing is to propose a new updated survey which requests information that the Exchange believes is more relevant to a specialist's performance in this day and age. The results of these evaluations are used by the Allocation, Evaluation and Securities Committee ("Committee") when making allocation and reallocation decisions regarding option specialist privileges.

The new survey has 15 all-new questions and will be answered by floor brokers who, Exchange records show, have traded at least a minimum number of times in the specialist's issues over the subject quarter.<sup>4</sup> Only specialist units (not individual specialists) would now be graded as allocations are made to units, not individual specialists; however, separate evaluations will be conducted for each quarter or half turrel post at which a unit has a specialist operation. Thus, a large specialist unit which is spread out over the floor may receive two or three separate evaluation scores so that the Committee can focus on exactly where a problem may be occurring. The same questionnaire will be used for equity option specialists,

index option specialists<sup>5</sup> and foreign currency option specialists. The survey would only be answered every six months instead of every three months, which is the current procedure.

Each question must be answered by giving the unit a score of 1 through 9 (very poor to excellent). Any question that is answered with a score of 4 or less must be accompanied by a written explanation. Floor brokers who submit negative comments about a particular specialist unit will be invited to speak directly with a representative of the specialist unit in order to try to resolve any problems that may exist and Exchange staff may attend such a meeting. Floor brokers who do not complete and return the surveys still will be subject to fines pursuant to Options Floor Procedure Advice C-8.

The questions asked will cover a wide range of specialist responsibilities such as the degree of liquidity provided, the tightness of quotes, timeliness of quote updates, ability to fill small lot orders, timeliness of reports, ability to conduct opening rotations, maintenance of crowd control, and clerical staffing.

The second purpose of this filing is to revise the process by which the Committee uses the questionnaires to evaluate the specialists' performance. Currently, there is a very complicated review system in place that the Exchange has determined needs to be simplified in order to be effective. The evaluations are now scored on a scale of 1 through 10, and any unit with an overall score below 5 on the questionnaire in one quarter, a score of below 5 for three or more questions in one quarter, or a score below 5 on the same question for three consecutive quarters is deemed to have performed below minimum standards and is subject to review by the Committee.

Under the proposed new language in Supplementary Material .02 to Rule 515, the Committee<sup>6</sup> would review the survey as well as regulatory history, written complaints, timeliness of openings, trading data, and any other relevant information in order to determine if minimum performance standards as to, among other things, quality of markets, observance of ethical standards, and administrative responsibilities have been met. If a specialist unit is ranked by score in the

bottom 10% of all units as a result of a semi-annual review, it will be presumed to have failed to meet the minimum performance standards.<sup>7</sup> The Committee may also make such a presumption if the information on the survey or the other information review by the Committee supports such a finding.

If the Committee makes such a presumption of failure to meet minimum performance standards, it may elect to hold an informal meeting with the specialist unit or it may elect to hold a formal hearing in accordance with Rule 511(e). The Committee may only impose sanctions such as removal of specialist privileges in one or more options classes or a prohibition from new allocations as the result of a formal hearing. Rules 511(c) and 515 will be amended to reflect these changes. The hearing procedures set forth in Rule 511(e) will not change and decisions will still be subject to appeal to the Board of Governors as provided for under By-Law Article XI, Section 11-1.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>8</sup> in general, and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.

*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

<sup>2</sup>This proposal was noticed for comment in Securities Exchange Act Release No. 36776 (January 26, 1996), 61 FR 3748 (February 1, 1996) (File No. SR-Phlx-95-91).

<sup>3</sup>See Letter from Michele R. Weisbaum, Associate General Counsel, Phlx, to Michael Walinskas, SEC, dated March 29, 1996 (withdrawing File No. SR-Phlx-95-91).

<sup>4</sup>The number of trades is variable but will be predetermined by the Committee.

<sup>5</sup>Currently, all of the specialist units that have been allocated index options are also equity option specialists; however, if a unit only traded index options, the survey would be equally applicable.

<sup>6</sup>The Committee may conduct such reviews or it may delegate that responsibility to the Quality of Markets Subcommittee. Exchange Rule 509 is being amended to note this function as a specific responsibility of this subcommittee.

<sup>7</sup>Under the current procedure, a specialist unit that receives an average score under 5.00 in any one quarter would be deemed to have performed below minimum standards.

<sup>8</sup>15 U.S.C. 78f(b).

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 Exchange. All submissions should refer to File No. SR-Phlx-96-23 and should be submitted by October 3, 1996.

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-23349 Filed 9-11-96; 8:45 am]

BILLING CODE 8010-01-M

#### SELECTIVE SERVICE SYSTEM

##### Senior Executive Service Performance Review Board; Appointments of Members

Announcement is made of the appointment of the following persons as members of the SES Performance Review Board for the Selective Service System: Richard M. McKee, Director, Dairy Division, Agricultural Marketing Service, USDA; Roger R. Rapp, Director, Field Operations, National Cemetery System, Department of Veterans Affairs; Harry H. Zimmerman, Director, Base Closure Office, Naval Facilities

Engineering Command, Department of the Navy.

The announcement of July 12, 1990, 55 FR 28709 is cancelled.

Dated: September 5, 1996.

Gil Coronado,

*Director.*

[FR Doc. 96-23368 Filed 9-11-96; 8:45 am]

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#### DEPARTMENT OF STATE

##### [Public Notice 2437]

##### Inspector General; State Department Performance Review Board Members (Office of Inspector General)

In accordance with section 4314 (c)(4) of the Civil Service Reform Act of 1978 (Pub. L. 95-454), the Office of Inspector General of the Department of State has appointed the following individuals to its Performance Review Board register:

Kenneth Hunter, Deputy Assistant Secretary of Passport Services, Bureau of Consular Affairs, Department of State

Donald Mancuso, Assistant Inspector General for Investigations, Department of Defense

Everett L. Mosley, Assistant Inspector General for Audit, Agency for International Development

Michael G. Sullivan, Assistant Inspector General for Auditing, Department of Veterans Affairs

Dated: August 29, 1996.

Jacquelyn L. Williams-Bridgers,

*Inspector General.*

[FR Doc. 96-23328 Filed 9-11-96; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

[CGD 96-044]

##### Documentation and Marine Safety for an International, Private-Sector Tug of Opportunity System

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; request for comments.

SUMMARY: The Coast Guard is conducting a public meeting to receive views on the documentation and marine safety criteria to be used in assessing a private-sector initiated, international, tug of opportunity system plan.

DATES: The meeting will be held on Thursday, October 17, 1996, from 9 a.m. until 5 p.m. Written statements and

requests to make oral presentations should reach the Coast Guard on or before October 10, 1996. Other comments should reach the Coast Guard on or before October 30, 1996.

ADDRESSES: The meeting will be held on the fourth floor North Auditorium, Jackson Federal Building, 915 Second Avenue, Seattle, Washington. Written materials may be mailed to the Executive Secretary, Marine Safety Council (G-LRA), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant W. M. Pittman, Office of Response (G-MOR-1), telephone (202) 267-0426, fax (202) 267-4085. The telephone number is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION: The Alaska Power Administration Asset Sale and Termination Act (Pub. L. 104-58) was signed into law on November 28, 1995. A Presidential directive and subsequent DOT Action Plan requires the Coast Guard to assess and provide a report to Congress on the most cost effective means of implementing a private-sector initiated, international, tug of opportunity system for vessels in distress operating within the Olympic Coast National Marine Sanctuary and the Strait of Juan de Fuca. A system plan will be considered at future public meetings once available.

##### Agenda of Meeting

The agenda includes the following:

##### Documentation

- (1) Core concepts.
- (2) Organizational and functional structure.
- (3) Technology issues.
- (4) Communications.
- (5) Tracking vessels.
- (6) Tug issues.
- (7) Other equipment.
- (8) Crew qualifications to crew a system tug.
- (9) Crew training to meet qualifications.
- (10) Testing requirements for crew.
- (11) Certification of qualified crew.
- (12) Legal requirements which should be addressed.
- (13) Fiscal administration which should be addressed.

##### Marine Safety

- (1) Concept of tug of opportunity.
- (2) Calling area description.
- (3) Calling fleet description.
- (4) Risk.