

among all firms that utilize the capacity of the system.

Nasdaq believes that for the foregoing reasons the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act in that the proposed fees provide for the equitable allocation of reasonable fees among members using facilities and systems operated by Nasdaq meet the requirements of Section 15A(b)(5) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor 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 reasons for so finding or (ii) as to which the NASD 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.

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 in the Commission's Public Reference Room. Copies of such filing will also be

available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-96-48 and should be submitted by January 27, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-38087; File No. SR-PSE-96-35]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Stock Exchange Incorporated Relating to Its Rules on Executions of "Odd Lot" Equity Orders

December 24, 1996.

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 September 25, 1996, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On December 17, 1996, the PSE submitted an amendment ("Amendment No. 1") to the proposed rule change.³ 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 PSE is proposing to amend its rules on executions of "odd lot" equity orders. Under the rule change, odd lot limit orders will be placed in the front of the book for priority and book display purposes. The rule change will also modify the basis on which limit, stop limit and stop orders must be executed. In addition, the rule change will prohibit certain practices involving the entry of odd-lot orders. Finally, the proposal will modify the Exchange's odd lot rule in order to remove certain

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE to Janet Russell-Hunter, Special Counsel, Office of Market Supervision, Division of Market Regulation, SEC, dated December 17, 1996. In Amendment No. 1, the PSE clarified the purpose of the rule change and made technical corrections to the text of the rule.

provisions that no longer apply to executions of odd lot orders on the Exchange.

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

The Exchange is proposing this rule change in order to provide better service to customers and to be competitive with other exchanges.⁴ The Exchange is proposing to modify Rule 5.34(b) ("Odd Lot Executions") to provide as follows:

First, with regard to market orders, the proposal states that an odd lot market order shall be executed off the price reflected in the consolidated quote system's best bid/offer. (The current rule states that such orders shall be filled at the price of the first round lot transaction which takes place on the primary market, plus if a buy order, or minus if a sell order, an odd lot differential, if any.)

Second, with regards to limit orders, the proposed rule states that an odd lot limit order shall be filled at, or better than, the price of the first regular way round lot transaction that is at, or better than, the limit order's price printed on the consolidated tape from the security's primary market.⁵ It further states that such odd lot orders shall be allowed to establish precedence without regard to priority of existing round-lot bids or offers at that price. (The current rule states that such orders shall be filled at the price of the first round lot transaction which takes place on the primary market, which in the case of a buy order is below the specified limit by the amount of the trading differential, or by a greater amount; plus

⁴ See Amendment No. 1, *supra* note 3.

⁵ See amendment No. 1, *supra* note 3.

if a buy order, or minus if a sell order, an odd lot differential, if any).

Third, with regard to stop orders, the proposal states that an odd lot stop order to buy shall become a market order when a regular way round lot transaction takes place at or above the price of the stop order on the primary market.⁶ An odd lot stop order to sell shall become a market order when a regular way round lot transaction takes place at or below the price of the stop order on the primary market.⁷ (The current rule states that an odd lot stop order becomes a market order when a round lot transaction takes place on the primary market, which in the case of a buy order is at or above the stop price; or which in the case of a sell order is at or below the stop price; and it further states, that the order shall then be filled at the price of the next round lot transaction which takes place on the primary market, plus if a buy order, or minus if a sell order, an odd lot differential, if any.)

Fourth, the proposed rule states that it shall be inconsistent with the purpose and intent of this Rule to engage in the following actions: (a) The unbundling of round-lots for the purpose of entering odd-lot limit orders in the comparable amounts; (b) the failure to aggregate odd-lot orders into round-lots when such orders are for the same account or for various accounts in which there is a common monetary interest; and (c) the entry of both buy and sell odd-lot limit orders in the same stock before one of the orders is executed for the purpose of capturing the "spread" in the stock. It further states that, in general, the Exchange views order entry practices that are intended to circumvent the round-lot auction market as abuses of the intent and purpose of the odd-lot system and such practices shall be considered violations of these rules.

Finally, the Exchange is proposing to remove several provisions from the rules relating to odd lot executions that no longer apply. First, the Exchange is proposing to eliminate all provisions in Rule 5.34(b) on odd lot differentials. Second, the proposal modifies rule 5.34(b) to eliminate the distinction between "PMP stocks" and "non-PMP stocks."⁸

2. Basis

The Exchange believes that the proposal is consistent with section 6(b)

of the Act, in general, and Section 6(b)(5) of the Act, in particular, in that it is designed to facilitate transactions in securities and to promote just and equitable principles of trade.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor 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 reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will—

(A) by order approve such 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 submission 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 in the Commission's Public Reference Room, 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-96-35

and should be submitted by January 27, 1997.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-38093; File No. SR-Phlx-96-32]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Index Options Exercise Advices

December 27, 1996.

I. Introduction

On July 29, 1996, 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 proposed rule change to amend Exchange Rule 1042A, Exercise of Option Contracts, and Floor Procedure Advice ("Advice") G-1, retitled Index Option Exercise Advice Forms. On December 4, 1996, the Exchange submitted Amendment No. 1 to their proposal to provide that the deadline for submitting a memorandum to exercise and an exercise advice form will be "no later than 4:30 p.m. or fifteen minutes after the close of trading, if it occurs at a time other than the regular close of trading."³ Currently, the deadline for such submissions is "no later than 4:30 p.m." In addition, the Phlx proposed to codify that anyone intending to exercise index options must complete a memorandum to exercise and/or an exercise advice form in compliance with the exercise cut-off time and must exercise the amount of

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4.

³ See Letter from Philip H. Becker, Senior Vice President, Chief Regulatory Officer, Phlx, to Matthew Morris, Office of Market Supervision, Division of Market Regulation, Commission, dated December 4, 1996 ("Amendment No. 1"). According to the Phlx, the purpose of this change is to clarify that modified hours are not limited to trading hours extending beyond 4:15 p.m., but include any modification to Exchange trading hours, including an early close. As such, the Phlx's revised rule language does not alter the Exchange's original intent. (The Commission notes that the Exchange inadvertently filed Amendment No. 1 to the rule proposal as Amendment No. 2.)

⁶ *Id.*

⁷ *Id.*

⁸ "PMP" stocks are those for which Exchange specialists provide primary market protection. Today, such protection applies to all stocks that may be executed on P/COAST, the Exchange's automatic execution system for equity securities.