

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38679; International Series Release No. 1086; File No. SR-PHLX-97-07]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change And Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 of the Philadelphia Stock Exchange, Inc. Regarding 3D Foreign Currency Option Holiday Expirations

May 27, 1997.

On March 14, 1997, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> a proposed rule change not to list any 3D foreign currency options ("3D FCOs") that would expire during the period December 20 through and including January 2 of each year.

Notice of the proposed rule change, together with the substance of the proposal, was published in the **Federal Register**.<sup>2</sup> No comment letters were received. The Exchange subsequently filed Amendment No. 1 to the proposal on April 18, 1997.<sup>3</sup> This order approves the proposed rule change, as amended.

#### I. Background

The Exchange proposes not to list any 3D FCOs that would expire during the period December 20 through and including January 2 of each year. 3D FCOs are presently traded on the PHLX on the German mark and the Japanese yen.<sup>4</sup> These are cash settled options that have an expiration every Monday at

11:59 p.m. Eastern Time (or the following business day if Monday is a holiday). The settlement value is based on a formula which averages random samples of bids and offers from contributor banks. The Exchange's experience with the 3D FCO on the German mark over the last two years has shown that it is often difficult to gather enough updated quotes during the Christmas and New Year's weeks each year. Thus, the Exchange believes the integrity of the derived settlement value may be called into question. Accordingly, the Exchange has determined not to list for trading any series of 3D FCOs which would expire between December 20 each year and January 2 of the following year. As a result of approval of this change, in 1997 the last expiration date of 3D FCOs would occur on December 15, 1997. After the December 15 expiration, the next 3D FCO expiration would occur on January 5, 1998.

The Exchange also proposed to adopt a permanent list of holidays which, if they fall on a Monday, would cause the 3D FCOs scheduled to expire that day to expire the next business day pursuant to Exchange Rule 100(b)(21)(iii).<sup>5</sup> The holidays are: Martin Luther King, Jr. Day; Memorial Day; Presidents Day; Independence Day; Easter Monday; Labor Day; May Day; Columbus Day and Veterans Day.

#### II. Discussion

The Commission finds that the proposed rule change is consistent with Section 6 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 protect investors and the public interest in that it allows the Exchange to forego or postpone expirations of 3D FCOs on days when the integrity of the settlement value may be questionable. As noted above, the Exchange's experience with the 3D FCO on the German mark over the last two years has shown that it is often difficult to gather enough updated bids and offers from contributor banks during the Christmas and New Year's weeks each year. Although the Exchange does not have any trading experience with expiring 3D FCOs on the Japanese yen during the month of December, the Commission believes that, based on PHLX's experience with the German mark, it is reasonable for the Exchange to conclude

that the same problems in obtaining updated quotes would occur for FCOs in the Japanese yen.<sup>6</sup> As a result of these concerns, the Commission believes that the Exchange's decision not to list 3D FCOs during the Christmas and New Year's weeks each year will help to maintain the integrity of the settlement values by ensuring that 3D FCOs will not be expiring when the available pool of bids and offers may be stale.

Further, to avoid confusion, the Exchange has committed to notify members in early November of each year that 3D FCOs expiring between December 20 and January 2 will not be available and again in early December when the PHLX announces 3D FCOs about to be listed. The PHLX has also committed to include in any marketing information on 3D FCOs the unavailability of expirations during the holiday period. These modifications should provide members and investors with adequate information far enough in advance to make any desired adjustments to their trading strategies due to the lack of 3D FCOs expiring during the holiday period.

The Commission also finds that by adopting a permanent schedule of holidays, the Exchange and investors will know for certain, in advance, when a holiday expiration will occur.<sup>7</sup> The holidays on the schedule were chosen because they are either U.S. bank holidays or European bank holidays (May Day). On those days, the interbank foreign exchange participants which provide quotations for the settlement value are not open for business so it would be very difficult to obtain enough updated quotations to provide a random sample. The Commission also believes that publishing the list of holidays to the Exchange's membership in a circular each year and through weekly expiration memos that note when certain options expire on a day other than a Monday due to a holiday should adequately inform Exchange members of the 3D FCOs that will not be listed during the holidays.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing of the proposed rule change in the **Federal Register** to require the Exchange to begin providing notice to its membership of the dates when 3D FCOs will not be listed, without further delay. Amendment No. 1 ensures that members will have adequate notice that 3D FCOs will not be listed if their

<sup>1</sup> 15 U.S.C. § 78s(b)(1).

<sup>2</sup> Securities Exchange Act Release No. 38527 (April 18, 1997), International Series Release No. 1075, 62 FR 20055 (April 24, 1997).

<sup>3</sup> Amendment No. 1 states that the Exchange will provide notice to its membership that it is not listing any 3D FCOs that would expire during the period December 20 through and including January 2 of each year: (1) upon approval of this proposed rule change; (2) in any marketing literature respecting the 3D FCOs which is printed in the future; (3) in early November of each year to remind the membership; and (4) in a circular at the time when the 3D FCO contracts that are not being listed, would have been listed (approximately early in December). Letter from Michele R. Weisbaum, Vice President and Associate General Counsel, PHLX, to Karl Varner, Staff Attorney, Office of Market Supervision, Division of Market Regulation, SEC, dated April 18, 1997.

<sup>4</sup> The Exchange has traded 3D German marks since September of 1994. See Securities Exchange Act Release No. 33732 (March 8, 1994), 59 FR 12023 (March 15, 1994). The Exchange recently started trading 3D options on the Japanese yen on February 24, 1997. See Securities Exchange Act Release No. 36505 (Nov. 22, 1995), International Series Release No. 889, 60 FR 61277 (Nov. 29, 1995).

<sup>5</sup> The rule originally required expirations to fall back to the preceding business day (usually Friday) when Monday was a holiday but was changed so that the options would still capture weekend risk. See Securities Exchange Act Release No. 35097 (Dec. 13, 1994), 59 FR 65559 (Dec. 20, 1994).

<sup>6</sup> See note 4 *supra*.

<sup>7</sup> See note 5 and accompanying text.

expirations would occur during the period December 20 through and including January 2 of each year. The Exchange will provide additional notices to their membership: (1) Upon approval of this proposed rule change; (2) in any marketing literature respecting the 3D FCOs which is printed in the future; (3) in early November of each year to remind the membership; and (4) in a circular at the time when the 3D FCO contracts that are not being listed, would have been listed (approximately early in December). These additional notices serve to minimize the potential for confusion concerning the application of the Exchange's rules regarding the dates of listing of 3D FCOs, and will ensure investors have adequate time to adjust their trading strategies if they so desire.

The Commission also believes that Amendment No. 1 does not raise any significant new issues that require public notice prior to approval, because Amendment No. 1 only addresses the notification provided to the Exchange's membership concerning the dates the dates when 3D FCOs will not be listed and no comments were received on the substance of the original proposal. Accordingly, the Commission believes it is consistent with Section 6(b)(5) 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. 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 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 PHLX. All submissions should refer to File No. SR-PHLX-97-07 and should be submitted by June 24, 1997.

### III. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change, as amended, is consistent

with the Act and Section 6 of the Act in particular.

*It is therefore Ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR-PHLX-97-07 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38683; File No. SR-Phlx-97-24]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Adopt an AUTOM Rule and To Request Permanent Approval for the AUTOM Pilot Program

May 27, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 2, 1997, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 Phlx proposes to adopt Rule 1080, Philadelphia Stock Exchange Automated Options Market ("AUTOM") and Automatic Executive System ("AUTO-X"), codifying and amending the policies and procedures concerning AUTOM. The Exchange also requests permanent approval of the AUTOM pilot program. The AUTOM System and the proposed rule are described below.

#### Proposed AUTOM Rule

Proposed Rule 1080 describes the AUTOM System and its features, with paragraph (a) as the general introduction. AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the

automatic entry and routing of Exchange-listed equity options and index options orders to the Exchange trading floor. Option orders entered by Exchange member organizations into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO-X, in accordance with the provisions of this Rule. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. This paragraph also provides that Rule 1080 shall govern the orders, execution reports and administrative messages ("order messages") transmitted between the offices of member organizations and the trading floors of the Exchange through AUTOM.

Proposed Rule 1080(b) lists the types of orders eligible for AUTOM. Generally, only agency orders may be entered. With respect to U.S. Top 100 Index options ("TPX"), broker-dealer orders may be entered into AUTOM, but are not eligible for AUTO-X.<sup>3</sup> For purposes of AUTOM, an agency order is an order entered on behalf of a public customer, and does not include any order entered for the account of a broker-dealer or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. In addition, respecting order size, orders up to the maximum number of contracts permitted by the Exchange may be entered. Currently, orders up to 100 contracts are eligible for AUTOM,<sup>4</sup> except the maximum order size for TPX options if 500 contracts.<sup>5</sup> Separate maximum order sizes apply to AUTO-X, which is discussed below.

The following types of orders are eligible for AUTOM: day, good-till-cancelled ("GTC"), market, limit, stop, stop limit, all or none, or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, market close, market on opening, limit on opening, limit close, and possible

<sup>3</sup> See Securities Exchange Act Release No. 36429 (October 27, 1995), 60 FR 55874 (November 3, 1995) (SR-PHLX-95-35).

<sup>4</sup> See Securities Exchange Act Release No. 28516 (October 3, 1990), 55 FR 41408 (October 11, 1990) (SR-PHLX-90-18).

<sup>5</sup> See Securities Exchange Act Release No. 38782 (May 30, 1995), 60 FR 30136 (June 7, 1995) (SR-PHLX-90-30). Although the Exchange received approval to expand the maximum AUTOM order size to 500 contracts, the Exchange's Board of Governors has limited implementation to TPX only.

<sup>8</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.