

believe that the requested relief meets this standard.

5. Applicants note that the terms and timing of the Transaction were determined by First Union and Signet and arose primarily out of business considerations beyond the scope of the Act and unrelated to the Fund and the Subadviser, including the time needed to obtain federal and state banking approvals for the Transaction. Applicants submit that it is in the best interests of shareholders of the Fund to avoid any interruption in services to the Fund, to allow sufficient time for the consideration and return of proxies, and to hold a shareholders meeting.

6. Applicants submit that the scope and quality of services provided to the Fund during the Interim Period will not be diminished. During the Interim Period, the Subadviser would operate under the New Agreement, which would be substantively the same as the Existing Agreement, except for its effective date. Applicants submit that if the personnel providing material services pursuant to the New Agreement change materially, the Subadviser will apprise and consult with the Fund's board of trustees to assure that the board (including a majority of the Independent Trustees) is satisfied that the services provided by the Subadviser will not be diminished in scope or quality. Accordingly, the Fund should receive, during the Interim Period, the same subadvisory services, provided in the manner, at the same fee levels as the Fund received before the Transaction.

7. Applicants contend that the best interests of shareholders of the Fund would be served if the Subadviser receives fees for its services during the Interim Period. Applicants state that the fees are essential to maintaining the subadviser's ability to provide services to the Fund. In addition, the fees to be paid during the Interim Period will be unchanged from the fees paid under the Existing Agreements, which have been approved by the shareholders of each respective Portfolio.

#### Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. The New Agreement will have substantially the same terms and conditions as the Existing Agreement, except for its effective date.

2. Fees earned by the Subadviser in respect of the New Agreement during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such paid fees) will be paid (a) to the Subadviser in

accordance with the New Agreement, after the requisite shareholder approvals are obtained, or (b) to the respective Portfolio, in the absence of shareholder approval with respect to such Portfolio.

3. The Fund will hold a meeting of shareholders to vote on approval of the New Agreement on or before the 120th day following the termination of the Existing Agreement (but in no event later than April 30, 1998).

4. Either First Union or the Subadviser will bear the costs of preparing and filing the application, and costs relating to the solicitation of shareholder approval of the Fund necessitated by the Transaction.

5. The Subadviser will take all appropriate steps so that the scope and quality of advisory and other services provided to the Fund during the Interim Period will be at least equivalent, in the judgment of the Independent Trustees, to the scope and quality of services previously provided. If personnel providing material services during the Interim Period change materially, the Subadviser will apprise and consult with the board to assure that the board, including a majority of the Independent Trustees of the Fund, are satisfied that the services provided will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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or postponed, please contact: The Office of the Secretary (202) 942-7070.

Dated: October 15, 1997.

**Jonathan G. Katz,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39225; File No. SR-Phlx-97-32]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Respecting the Public Order Exposure System for PACE Orders

#### I. Introduction

On June 30, 1997, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to 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> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to extend the duration of its automatic execution system order exposure time period for eligible orders from the current 15 seconds to 30 seconds.

The proposed rule change was published for comment in Securities Exchange Act Release No. 38864 (July 23, 1997), 62 FR 40882 (July 30, 1997). No comments were received on the proposal. This order approves the proposed rule change.

#### II. Description

The operation of the Philadelphia Stock Exchange Automatic Communication and Execution ("PACE") System is governed by Phlx Rule 229 ("PACE Rule"). The PACE System is the Exchange's automatic order routing and executing system for securities on its equity trading floor.

With respect to market orders entered into PACE, Supplementary Material .05 to the PACE Rule provides that, in 1/8 point markets or greater, round-lot market orders up to 500 shares and partial round-lot ("PRL") market orders up to 599 shares (*i.e.*, orders that combine a round-lot with an odd-lot order) are stopped at the PACE Quote<sup>3</sup>

<sup>1</sup> 15 U.S.C. § 78s(b)(1).

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

<sup>3</sup> The PACE Quote consists of the best bid/offer among the American, Boston, Cincinnati, Chicago, New York, Pacific and Philadelphia Stock Exchanges as well as the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES"). See PACE Rule.