

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40870; File No. SR-Phlx-98-53]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Mandatory Year 2000 Testing

December 31, 1998.

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 December 8, 1998, as amended on December 28, 1998,³ 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal and Amendment No. 1 thereto on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposals make it mandatory for all Phlx members and participants to participate in Year 2000 testing. Specifically, proposed Rule 650 would provide mandatory participation and reporting in a manner and frequency prescribed by the Exchange, and would exempt certain members from participation as set forth in detail below.

The complete text of proposed Rule 650 is below. Proposed new language is italicized.

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Rule 650

Mandatory Participation in Year 2000 Testing

Rule 650. Each member and member organization shall participate in testing of computer and computer related systems designed to prepare for the Year 2000 century date change in a manner and frequency prescribed by the Exchange, and shall provide to the Exchange reports related to such testing in a reasonably prompt fashion as requested by the Exchange. Any

member or member organization which is subject to this rule and determined by the Exchange to be in violation of this rule may be subject to disciplinary action pursuant to the Exchange's rules.

Commentary

01. The Exchange may exempt a member or member firm from this requirement if that member cannot be accommodated in the testing schedule by the organization conducting the test or if the member does not employ computers in its business or for other good reasons determined by the Exchange.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the Exchange 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 Exchange 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

For some time, the securities industry, including the Phlx, has been considering proper systems preparation in order to avoid potential computer problems associated with the approach of the Year 2000. The primary concern worldwide is that computer systems may incorrectly read, for example, the date "01/01/00" to be the year 1900, or some other incorrect date, causing problems with interest payments, loan delinquencies, failures in tracking date and time information regarding trades, and other yet unknown problems.

The concern has been addressed by the Exchange in stages, including both internal and external "BETA" testing. The next stage involves industry-wide testing of computer systems. Test participants are to include, among others, exchanges, registered clearing agencies and depositories, data processors and broker-dealers. To facilitate testing on an integrated, industry-wide basis, the Securities Industry Association ("SIA") has undertaken to coordinate these efforts. Already, connectivity/format testing sessions, consisting of order entry/front end data from member firms to exchanges, and extended point-to-point testing sessions, consisting of exchanges executing mock orders and passing matched trade files to the utilities for

clearance and settlement processing, is scheduled and being implemented. Phlx is participating in all phases of this testing, and proposes to mandate participation from members and member organizations.

The first industry-wide testing session involving processing of test scripts for order processing/order execution and reporting (using dummy security symbols and production clearing numbers) from member firms to exchanges, exchanges to utilities, and utilities to member firms, is scheduled to take place on Saturday, March 6, 1999. In order for a member firm to qualify to participate in the March 6, 1999 test session, they must participate in the scheduled connectivity and point-to-point testing sessions leading up to the March 6 date.

The rule is proposed to authorize the Exchange to require that members and member organizations participate in testing of computer systems in a manner and frequency as may be prescribed by the Exchange. The scope of the mandated test participation includes, but is not limited to, point-to-point testing, connectivity testing, and industry-wide testing conducted by the SIA (including prerequisite testing for schedules industry-wide testing), and other testing which may be required by the Exchange.

The rule contemplates that the Exchange may exempt a member from this requirement if that member cannot be accommodated in the testing schedule by the organization conducting the test or if the member does not employ computers in its business, or for other good reasons determined by the Exchange.

A member or member organization that is not exempt from participation and nonetheless fails to participate in the tests or fails to file any reports required by the Exchange may be subject to disciplinary action pursuant to the Exchange's rules.⁴ Such reports may include, *inter alia*, reports required of broker-dealers subject to the Net Capital Rule relating to systems preparedness for the Year 2000, pursuant to amended Exchange Act Rule 17a-5.

⁴ Proposed Rule 605 specifically states that any member or member organization determined by the Exchange to be in violation of the rule may be subject to disciplinary action pursuant to the Exchange's rules. While disciplinary action is implied as a consequence of any Exchange rule violation, proposed Rule 605 includes this clause in order to remain consistent with similar rules proposed by other exchanges, on which this proposed rule is based.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Richard Rudolph, Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, Division of Market Regulation ("Division"), Commission, dated December 23, 1998. The original filing was not noticed in the **Federal Register**.

2. Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act⁵ in general, and in particular, with Section 6(b)(5),⁶ in that it is designed 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 by enhancing efficiency through automation in the market and protecting the public through Year 2000 preparedness along with the securities industry.

B. Self Regulatory Organization's Statement on Burden on Competition

The Phlx 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

No written comments were either solicited or received with respect to the proposed rule change.

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission has concluded, for the reasons set forth below, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. Mandating Year 2000 testing and reporting is consistent with Section 6(b)(5) of the Act, among other aspects, requires that the rules of an exchange promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that the proposed rule change will facilitate the Phlx's and member firms' efforts to ensure the securities markets' continued smooth operation during the period leading up to and beyond January 1, 2000.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

The Exchange has requested that the Commission approve the proposed rule change prior to the 30th day after the date of publication of notice of the filing in the **Federal Register** because the Exchange believes that the proposed rule change is necessary for the protection of investors and the safeguarding of the securities of investors, and that current participation in testing for the prevention of Year 2000 failures is critical during the next year. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of the filing in the **Federal Register**. It is vital that self-regulatory organizations ("SROs") such as the Phlx have the authority to mandate that their member firms participate in Year 2000 testing and that they report test results (and other Year 2000 information) to the SROs. The proposed rule change will help Phlx participate in coordinating Year 2000 testing, including industry-wide testing, and in remediating any potential Year 2000 problems. This, in turn, will help ensure that the industry-wide tests and the Phlx's Year 2000 efforts are successful. The proposed rule change will also help the Phlx work with its member firms, the SIA, and other SROs to minimize any possible disruptions the Year 2000 may cause.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 Section, 450 Fifth Street, NW, Washington, DC 20549. 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-98-53 and should be submitted by January 29, 1999.

V. Commission

It is therefore ordered, pursuant to Section 19(b)(2) of the Act⁷ that the proposed rule change (SR-Phlx-98-53) and Amendment No. 1 thereto is thereby approved on an accelerated basis.⁸

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40872; File No. SR-SCCP-98-05]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Continuation of Limited Clearance and Settlement Services

December 31, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 9, 1998, Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-SCCP-98-05) as described in Items I and II below, which items have been prepared primarily by SCCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, SCCC will be permitted to provide limited clearance and settlement services for an additional one year period ending December 31, 1999.

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

In its filing with the Commission, SCCC included statements concerning

⁷ 15 U.S.C. 78s(b)(2).

⁸ In approving the proposal, the Commission has considered the rule's impact on efficiency, competition and capital formation, 15 U.S.C. 78c(f).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).