

proposed rule change (SR-Phlx-99-39), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>20</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-10258 Filed 4-24-00; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42699; File No. SR-Phlx-99-04]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Enhanced Specialist Participation in Wheel Trades

April 18, 2000.

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 June 14, 1999, 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 Phlx. The proposed rule change was filed by the Exchange as a "non-controversial" rule change under Rule 19b-4(f)(6)<sup>3</sup> under the Act. 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 proposal amends Options Floor Procedure Advise F-24, AUTO-X Contra-Party Participation (The Wheel) ("Advise F-24"), as it relates to Enhanced Specialist Participation in Wheel trades. Specifically, the proposal modifies paragraph (e) to state that where the Enhanced Specialist Participation of Rule 1014(g)(ii) applies, the specialist shall receive an enhanced participation "substantially equivalent to twice the number of contracts as other crowd participants," rather than "twice the contracts," as the text of Advise F-24 previously stated.

The proposal retains the provision that the Enhanced Specialist Participation on the Wheel requires the

unanimous consent of Wheel participants, but adds the requirement that it be approved by the Options Committee Chairman or his designee.

In addition, the proposal amends paragraph (e) to clarify that the Wheel will rotate in increments depending upon the size of the AUTO-X guarantee, not the size of each individual AUTO-X order.<sup>4</sup>

#### 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 Phlx includes statements concerning the purpose of and basis for the proposed rule change and discussed any comment it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statement.

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

###### 1. Purpose

The Wheel is an automated mechanism for assigning trade participation among specialists and Registered Options Traders ("ROTs") on a rotating basis, as contra-side participants to AUTO-X orders. AUTO-X is the automatic execution feature of the Exchange's Automated Options Market ("AUTOM") system,<sup>5</sup> which provides customers with automatic execution of eligible option orders at displayed markets.

The purpose of the Wheel is to increase the efficiency of order execution through AUTO-X by including floor traders in the automated assignment of contra-parties to incoming AUTO-X orders. Thus, the Wheel is intended to make AUTO-X more efficient, as contra-side participation is assigned automatically, and no longer entered manually. The Exchange's detailed Wheel provisions appear as Advise F-24.<sup>6</sup>

The Enhanced Specialist Participation is a program whereby an equity or index option specialist receives an "enhanced" or additional "split," meaning a higher participation in the

execution of an order.<sup>7</sup> The enhanced parity split applies to: (i) All index options; (ii) all new option classes allocated to a specialist during the year; and (iii) 50% of a specialist's equity option issues, which issues are designated by the specialist and approved by the Exchange's Allocation, Evaluation, and Securities Committee. The program also permits specialists to revise the list of eligible equity options (*i.e.*, the designated equity options for which the specialist is entitled to receive the enhanced parity split) on a quarterly basis. Pursuant to Rule 1014(g)(ii), the enhanced split applies in those situations where an equity or index option specialist is on parity with one or more controlled accounts<sup>8</sup> for orders involving more than five contracts.

As of the date this proposed change to the Wheel allocation was filed, the enhanced specialist split was defined by Rule 1014(g)(ii) as follows: when the specialist was on parity with one controlled account, the specialist received 60% of the contracts and the controlled account received the remaining 40%. When the specialist was on parity with two controlled accounts, the specialist received 40% of the contracts and each controlled account received 30%; and when the specialist was on parity with three or more controlled accounts, the specialist was counted as two crowd participants for purposes of allocating the contracts. In all of these situations, if a customer is on parity, the customer could not receive a lesser allotment than any other crowd participant, including the specialist.

In August of 1998, the Phlx amended Advise F-24 to allow specialists to receive twice the number of contracts as other Wheel participants to achieve an enhanced participation consistent with the provisions of Phlx Rule 1014(g)(ii). The enhanced participation was implemented in the form of an

<sup>7</sup> The program was initially approved in 1994 as a one year pilot. See Securities Exchange Act Release No. 34606 (August 26, 1994), 59 FR 45741 (September 2, 1994). It has subsequently been extended and revised. See Securities Exchange Act Release Nos. 35028 (November 30, 1994), 59 FR 63151 (December 7, 1994); 35429 (March 1, 1995), 60 FR 12802 (March 8, 1995); 36122 (August 18, 1995), 60 FR 44530 (August 28, 1995); 37254 (August 5, 1996), 61 FR 42080 (August 13, 1996); 38924 (August 11, 1997), 62 FR 44160 (August 19, 1997); 39401 (December 4, 1997), 62 FR 65300 (December 11, 1997); and 40876 (December 31, 1998), 64 FR 1849 (January 12, 1999). The Commission granted the pilot permanent approval in July 1999. See Securities Exchange Act Release No. 41588 (July 1, 1999), 64 FR 37185 (July 9, 1999).

<sup>8</sup> Pursuant to Rule 1014(g)(i), a controlled account includes any account controlled by or under common control with a member broker-dealer.

<sup>20</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.

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> See Securities Exchange Act Release No. 37977 (November 26, 1996), 61 FR 63889 (December 2, 1996.)

<sup>5</sup> AUTOM is an electronic order routing and delivery system for option orders.

<sup>6</sup> See Securities Exchange Act Release No. 35033 (November 30, 1994), 59 FR 63152 (December 7, 1994).

additional sign-on for the specialist on the Wheel rotation.<sup>9</sup>

Thereafter, however, the Phlx learned that due to systems configurations that could not be altered without significant programming change, the additional specialist sign-on did not result in the specialist receiving twice the number of contracts. More specifically, the system was treating the second sign-on like an ROT sign-on as opposed to that of a specialist. As a result, because of the many variables that determine how contracts are allocated among participants, the specialist would not always receive twice the number of contracts for trade.

Consequently, the Phlx proposed to amend Advice F-24 to delete the language stating that the specialist will receive twice the number of contracts. Instead, under the new language of the proposal, the specialist will receive an enhanced participation that is *substantially equivalent* to twice the number of contracts as other crowd participants.<sup>10</sup> Actual participation will be determined by a number of factors, including the number of participants on the Wheel, and the AUTO-X guarantee for the particular issue.

The Phlx represents that although reconfiguring the Wheel to allow a second specialist sign-on would involve a significant programming change, reconfiguring the specialist frequency and the number of contracts received

<sup>9</sup> Although, as described above, Rule 1014(g)(ii) implements a three-tiered scheme, allocating 60% or 40% of contracts to the specialist when one or two other controlled accounts are on parity, respectively, the thrust of the rule resided in the "two-for-one" allocation of its third tier, applied when three or more other controlled accounts were on parity. Due to systems reasons, this two-for-one enhanced participation was adopted for all trades assigned by the Wheel, regardless of the number of participants on parity. See Securities Exchange Act Release No. 40370 (August 27, 1998), 63 FR 47077 (September 3, 1998). See also *infra*, note 10.

<sup>10</sup> The Commission notes that the Exchange filed a proposed rule change to amend Rule 1014(g)(ii)—the predicate of Advice F-24—to state that when the specialist is at parity with three or more controlled accounts, the enhanced specialist participation will be 30%, rather than "two-for-one." See Securities Exchange Act Release No. 42161 (November 19, 1999), 64 FR 66958 (November 30, 1999) (File No. SR-Phlx-99-39). The Commission has today approved this other proposed rule change. See Securities Exchange Act Release No. 34-42700, April 18, 2000. The Commission notes, however, that enhanced participations provided to specialists for Wheel trades will continue to be governed by the standard approved in this Order (*i.e.*, substantially equivalent to twice the number of contracts as other crowd participants). The Phlx may consider in the future whether to propose a further change to Advice F-24 to apply the new, 30% enhanced specialist split to Wheel trades, as well. Telephone conversation between Nandita Yagnik, the Phlx, and Michael Loftus and Ira Brandriss, Division of Market Regulation, the Commission, January 6, 2000.

per participation can be achieved without a significant programming change. Thus, the Phlx's Regulatory Services Department (or other Exchange personnel charged with this function) will configure specialist Wheel participation under the proposal on a crowd-by-crowd basis based upon the factors above.

The Phlx further represents that it will monitor these factors and the actual participation levels on a monthly basis to ensure that specialist Wheel enhanced participation in fact remains at a level substantially equivalent to twice the number of contracts compared to other participants on the Wheel.

For example, if there is a specialist and three ROTs for a particular issue, and the AUTO-X guarantee is 25 contracts (such that each order will be allocated 5 contracts to each Wheel participant),<sup>11</sup> Regulatory Services personnel will configure the Wheel such that the specialist would participate after two ROTs (*i.e.*, specialist, first ROT, second ROT, specialist, third ROT, first ROT, specialist). At the end of the trading day, the specialist should receive an enhanced split approximately equal to twice the number of contracts as other Wheel participants.<sup>12</sup>

Enhanced participation on the Wheel will continue to be contingent upon unanimous consent of the Wheel participants in a particular option issue, a provision intended to ensure implementation only where the ROTs on the Wheel agree that more participation for the specialist and hence, less for the ROTs, is fair and appropriate. The proposal adds a new clause requiring the approval of the Chairman of the Options Committee or his designee.

The proposal also amends the text of Advice F-24 to clarify that the Wheel will rotate in increments depending upon the size of the AUTO-X guarantee, not the size of each individual AUTO-X order.

## 2. Statutory Basis

The Phlx believes that the rule change is consistent with section 6 of the Act<sup>13</sup> in general, and with section 6(b)(5) of the Act,<sup>14</sup> in particular, which requires that the Exchange's rules be designed to

<sup>11</sup> See Advice F-24(e), which specifies that for AUTO-X orders consisting of 11 to 25 contracts, minimum allocations for Wheel participants must be approximately 5 contracts.

<sup>12</sup> Attached as Exhibit C to the Phlx's filing, which is available for public inspection at the Commission's Public Reference Room, is a chart which shows how the enhanced split will operate for different size trading crowds and with different AUTO-X guarantees.

<sup>13</sup> 15 U.S.C. 78f.

<sup>14</sup> 15 U.S.C. 78f(5).

promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as protect investors and the public interest.

The purpose of Advice F-24 is to fairly and efficiently extend the enhanced specialist split to the Wheel. In originally adopting the enhanced specialist split, the Exchange identified the need to attract new specialist units as well as retain and encourage current specialist units to vigorously trade existing options and aggressively seek and apply for newly allocated options. The Phlx believes the proposed rule change furthers these purposes.

## 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

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder<sup>16</sup> because the proposed rule change (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) was to become operative more than 30 days from the date on which it was filed, and the Phlx provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date.<sup>17</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether it 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 20549-0609. Copies of the submission, all subsequent amendments, all written

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 Exchange. All submissions should refer to File No. SR-Phlx-99-04 and should be submitted May 16, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-10259 Filed 4-24-00; 8:45 am]

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## DEPARTMENT OF STATE

### [Public Notice 3297]

#### **Culturally Significant Objects Imported for Exhibition Determinations: "Arms and Armor of 17th Century Virginia"**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority of October 19, 1999, I hereby determine that the object to be included in the exhibition "Arms and Armor of 17th Century Virginia," imported from abroad for the temporary exhibition without profit within the United States, is of cultural significance. This object is imported pursuant to a loan agreement with a foreign lender. I also determine that the exhibition or display of the exhibit object at the Jamestown Settlement Museum, Williamsburg, VA from on or about May 1 to October 31, 2000 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of exhibit objects, contact Jacqueline Caldwell, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of

State (telephone: 202/619-6982). The address is U.S. Department of State, SA-44; 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: April 18, 2000.

**William P. Kiehl,**

*Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. 00-10284 Filed 4-24-00; 8:45 am]

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## DEPARTMENT OF STATE

### [Public Notice Number 3278]

#### **Notice of Meetings; International Telecommunication Advisory Committee (ITAC) and International Telecommunication Advisory Committee—Telecommunication Standardization Sector (ITAC-T)**

The Department of State announces meetings of the U.S. International Telecommunication Advisory Committee (ITAC), and the U.S. International Telecommunication Advisory Committee—Telecommunication Standardization (ITAC-T) National Committee. The purpose of the Committees is to advise the Department on policy and technical issues with respect to the International Telecommunication Union and international telecommunication standardization. Except where noted, meetings will be held at the Department of State, 2201 C Street, NW., Washington, DC.

The ITAC will meet from 10 to noon on April 26, 2000, at the Department of State. The agenda consists of a debrief of the meeting of the working group on ITU reform and planning for preparations for the ITU Council meeting in July 2000.

The ITAC-T will meet from 9:30 to 4 on April 27, 2000, at the Telecommunication Industry Association offices on Wilson Boulevard, Arlington, VA, and May 17, 2000 (at a location to be determined). The agendas will both consist of development of recommendations for the ITU-T Study Programme for the next study period, positions on the alternative approval process, and other preparations for the June ITU Telecommunication Sector Advisory Group (TSAG) and the October World Telecommunication Sector Assembly (WTSA). We regret the short notice due to unanticipated schedule changes for the ITAC Chairman.

Members of the general public may attend these meetings. Entrance to the Department of State is controlled; people intending to attend any of the

ITAC meetings should send a fax to (202) 647-7407 not later than 24 hours before the meeting. This fax should display the name of the meeting (ITAC T, or US Study Group A or D, and date of meeting), your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: US driver's license, passport, US Government identification card. Enter from the C Street Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins. Actual room assignments may be determined at the lobby or by calling the Secretariat at 202 647-0965/2592.

Attendees may join in the discussions, subject to the instructions of the Chair. Admission of members will be limited to seating available.

Dated: April 19, 2000.

**Julian E. Minard,**

*Secretariat to the ITAC-T, Department of State.*

[FR Doc. 00-10272 Filed 4-20-00; 2:33 pm]

BILLING CODE 4710-45-U

## DEPARTMENT OF TRANSPORTATION

#### **Applications of Trans Borinquen Air, Inc. for Issuance of New Certificate Authority**

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Order to Show Cause (Order 2000-4-20); Dockets OST-99-6173 and OST-00-6777.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue orders (1) finding that Trans Borinquen Air, Inc., fails to meet the U.S. citizenship requirements of 49 U.S.C. 41102 and 40102(a)(15), and (2) denying it certificates to engage in interstate and foreign charter all-cargo transportation.

**DATES:** Persons wishing to file objections should do so no later than May 3, 2000.

**ADDRESSES:** Objections and answers to objections should be filed in Dockets OST-99-6173 and OST-00-6777 and addressed to Department of Transportation Dockets (SVC-124, Room PL-401), Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Mr. Galvin Coimbre, Air Carrier Fitness

<sup>18</sup> 17 CFR 200.30-3(a)(12).