

both appropriate and necessary for the Board to review Committee decisions that raise the broader issues referenced above. Accordingly, the Board has approved a procedure for discretionary, and in certain cases mandatory, Board review and approval of stock assignment transfers in the case of specialist firm consolidations, and for discretionary authority to review and approve transfers of assigned stocks in circumstances where there is a change in control of a specialist firm.

Under the proposal, the Committee will continue to review transfers of assigned stocks in connection with specialist firm consolidations or changes in control of specialist firms, subject to the following new review procedures. A Board panel, composed of all Board members that are not affiliated with specialist firms may review (on a discretionary basis) any Committee decision regarding the transfer of assigned stocks in connection with consolidation<sup>4</sup> of specialist firms or a change in control of a specialist firm, if a member of the Board panel requests discretionary review within 10 days of a Committee decision. If no discretionary review is requested within this period, the Committee decision with respect to the proposed transfer or assigned stocks will become final. If the specialist firm consolidation will create or increase concentration<sup>5</sup> in specialist firms, however, review by the Board panel will be mandatory and no panelist need request the review.

The Exchange believes that the proposed procedures will enable the Exchange to better monitor and regulate the long-term business and operational effects of business combinations among specialist firms.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and with the requirements of Section 6(b).<sup>6</sup> In particular, the Exchange believes the proposed rule is consistent with Section 6(b)(5) of the Act<sup>7</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the

mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

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

The Exchange 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 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 CHX 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, 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 20549-0609. 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 CHX. All submissions should refer to File No. SR-CHX-00-08 and should be submitted by August 2, 2000.

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. 34-43003; File No. SR-NASD-00-40]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Mandatory Decimal Pricing Testing

June 30, 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 27, 2000, the National Association of Securities Dealers, Inc. ("NASDA" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated the proposed rule change as one concerned solely with the administration of the self-regulatory organization under Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

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

NASD Regulation is proposing to add a new rule, Rule 3420, to the Conduct Rules of the National Association of Securities Dealers, Inc. ("NASD" or "Association"), to require clearing firms and market makers that are members to conduct or participate in the testing of their computer systems to ascertain decimal pricing conversion compatibility of those systems. The text of the proposed rule change is available at the NASD and at the Commission.

<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.

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

<sup>4</sup> "Consolidation" of two or more specialist firms includes acquisitions, mergers, creation of joint trading accounts and other profit sharing arrangements, as well as the combining of specialist firms under common control.

<sup>5</sup> "Concentration" means a financial interest in trades constituting 10% or more of total Exchange trade volume.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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

In its filing with the Commission, NASD Regulation 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. NASD Regulation 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 purpose of the proposed rule change is to require clearing firms and market makers that are members of the NASD to conduct or participate in the securities industry's decimalization pricing tests to ensure that conversion to decimal pricing occurs successfully and with minimal disruption of the markets.<sup>4</sup> The proposed rule change will assist the Association in implementing the SEC's recent Order Directing the Exchanges and NASD to Submit a Decimalization Implementation Plan<sup>5</sup> ("SEC Order"), which directs certain securities industry participants to develop a plan for conversion to decimal pricing. The NASD believes that the proposed rule change, which mandates testing by and among securities industry participants, will play a critical role in ensuring a successful conversion to decimal pricing.

To ensure that its members successfully transition to decimalization, the NASD has been working to prepare the industry for conversion to decimal pricing by requiring testing by and among industry participants.

In particular, the testing by and among industry participants mandated by the proposed rule change will be critical to: (1) Ensuring compliance with the SEC Order; (2) successfully converting the U.S. market to decimal pricing; (3) minimizing any disruption to the markets as a result of such

conversion; and (4) reducing the impact of conversion on investors.

The proposed rule change provides authority to the NASD to require participation in organized, industry-sponsored tests, and to require "point-to-point" testing between member firms and the NASD and other industry systems. The decimalization testing is expected to be implemented in stages.

Member testing will focus on those firms that the NASD believes could cause the most disruption to the securities markets if their computer system were not able to accommodate decimal pricing—specifically clearing firms and market making firms. The NASD proposes to require market makers and clearing firms to conduct or participate in testing of their computer systems to ascertain the decimal pricing conversion compatibility of such systems.

In connection with the proposed rule change, the NASD intends to issue Notices to Members specifying members' reporting and testing obligations sufficiently in advance of specific testing events to provide members with adequate time to comply. While it is expected that each Notice to Members will be issued with sufficient time for members to comply with a particular testing requirement, nothing in this rule relieves member firms of their ongoing obligation to take all necessary steps so that they may function properly upon industry conversion to decimal pricing.

In addition, the proposed rule change requires firms to provide the NASD with any reports concerning the results of industry tests. Members also would be responsible for maintaining adequate documentation of any tests performed and would be required to make such documentation available for examination by NASD staff.

To assist with reporting test results to the NASD, the staff will design a standardized format for firms to use. Individual member firm testing result reports will not be publicly available, but will be provided to the Securities and Exchange Commission upon request. NASD staff will collect, review and analyze these reports and compile periodic consolidated reports that will be made available to the Securities and Exchange Commission and to others generally to evaluate the progress of the testing effort and the readiness of certain NASD members. In addition, the NASD believes that the individual reports from members will enable the NASD to identify those members that have not adequately prepared for decimal pricing conversion so that appropriate action can be taken to

address these members' deficiencies. Any member that is subject to testing and fails to participate in the tests or fails to file any required reports or surveys will be subject to disciplinary action.

#### 2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that that the proposed rule is necessary to protect investors and the public interest. The proposed rule change, which requires certain members to conduct or participate in decimal pricing testing, and to file reports about the tests, will enable the NASD and the SEC to evaluate the readiness of the securities industry for decimal pricing. The scope of firms subject to the rule is limited to those firms that perform critical functions in the markets and if they were unable to perform these functions upon industry conversion to decimal pricing, could cause disruptions in the markets and, consequently, harm investors.

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

NASD Regulation 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.

### 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

The foregoing rule change has become effective immediately under Section 19(b)(3)(A)(iii) of the Act<sup>6</sup> and subparagraph (f)(3)<sup>7</sup> of Rule 19b-4 thereunder,<sup>8</sup> in that it is concerned solely with the administration of the self-regulatory organization. At any time

<sup>4</sup> The current practice in the U.S. equities markets is to quote security prices in fractions. Decimalization is the conversion of securities industry systems from fractional to decimal pricing. The U.S. securities markets are the only major markets that do not price securities in decimals.

<sup>5</sup> Securities Exchange Act Release No. 42914, (June 8, 2000), 65 FR 38010 (June 19, 2000).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>7</sup> Initially, the proposed rule change was filed under subparagraph (f)(1) of Rule 19b-4. This error was corrected by letter dated June 29, 2000. See letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine England, Assistant Director, SEC.

<sup>8</sup> 17 CFR 240.19b-4(f)(5).

within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### 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 20549-0609. 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-00-40 and should be submitted by August 2, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43011; File No. SR-Phlx-00-28]

#### Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Divide Its Allocation, Evaluation and Securities Into Two Separate Committees

##### I. Introduction

On March 28, 2000, 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")<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, a proposed rule change that would divide its Allocation, Evaluation and Securities Committee into two separate committees, one for equities and one for options. The proposed rule change was published for comment in the **Federal Register** on May 30, 2000.<sup>3</sup> The Commission received no comments on the proposal. This order approves the Phlx's proposed rule change.

##### II. Description of the Proposal

The Exchange proposes to amend Phlx By-Law Article X, Section 10-7 to divide its Allocation, Evaluation and Securities Committee into two separate committees: an Equity Allocation, Evaluation and Securities Committee and an Option Allocation, Evaluation and Securities Committee. The Exchange also proposes to amend Phlx Rule 500 to reflect the changes in the amended By-Law.

Currently, the Allocation, Evaluation and Securities Committee is composed of one Public Governor, one Non-Industry Governor, three persons who conduct a public securities business, two persons who are active on the equity trading floor, and two persons who are active on the options trading floor.<sup>4</sup> The committee is responsible for appointing specialist units on each floor,<sup>5</sup> approving the transfer of equities and options among specialist units on each floor,<sup>6</sup> allocating equities and options to specialist units on each floor;<sup>7</sup> evaluating the performance of specialist units on each floor,<sup>8</sup> reallocating equities and options from one specialist unit to another on each floor;<sup>9</sup> and supervising questions pertaining to securities admitted to dealings on the Exchange.<sup>10</sup>

Under the proposal, each new committee will consist of nine members. Five persons will be members of both new committees: three off-floor persons who conduct a securities business, one Non-Industry Governor, and one Public Governor. Of the two Governors, one will chair both committees. The remainder of the Equity Allocation, Evaluation and Securities Committee will consist of four persons who are

active on the equity trading floor as floor brokers or specialists. The remainder of the Option Allocation, Evaluation and Securities Committee will consist of one person who is active on the options trading floor as a floor broker and three persons who are active on the options trading floor as specialists, registered options traders, or floor brokers.

Each new committee will consist of core members, who will serve a three-year term that will be renewable once, and annual members, who will serve a one-year term that will be renewable twice. The core members of the Equity Allocation, Evaluation and Securities Committee will consist of three persons who conduct a public securities business and two persons who are active on the equity trading floor as specialists or floor brokers. The annual members of the Equity Allocation, Evaluation and Securities Committee will consist of the Public Governor, the Non-Industry Governor, and two persons who are active on the equity trading floor as specialists or floor brokers. The core members of the Option Allocation, Evaluation and Securities Committee will consist of three persons who conduct a public securities business, one person who is active on the options trading floor as a floor broker, and one person who is active on the options trading floor as a specialist, registered options trader, or floor broker. The annual members of the Option Allocation, Evaluation and Security Committee will consist of the Public Governor, the Non-Industry Governor, and two persons who are active on the options trading floor as specialists, registered options traders, or floor brokers.

##### III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act.<sup>11</sup> In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act.<sup>12</sup> Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest.

The Exchange's proposal will split the existing Allocation, Evaluation and Securities Committee, which has some members who are active on the equities floor and some who are active on the options floor, into two new committees.

<sup>11</sup> In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

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

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

<sup>3</sup> See Exchange Act Release No. 42800 (May 19, 2000), 65 FR 34521.

<sup>4</sup> See Exchange Rule 500.

<sup>5</sup> See Exchange Rule 501.

<sup>6</sup> See Exchange Rule 508.

<sup>7</sup> See Exchange Rule 511(b).

<sup>8</sup> See Exchange Rules 511(c) to 511(e) and 515.

<sup>9</sup> See *id.*

<sup>10</sup> See Exchange Rules 800 to 899.

<sup>9</sup> 17 CFR 200.30-3(a)(12).