

participant to the Linkage Plan. Notice of filing and an order granting temporary effectiveness of the proposal through January 18, 2001 was published in the **Federal Register** on September 29, 2000.⁴ The Commission did not receive any comments on the proposal. This order approves the proposed amendment on a permanent basis.

II. Discussion

The current participants to the Linkage Plan are the Amex, CBOE, ISE, PCX, and Philadelphia Stock Exchange, Inc. ("Phlx").⁵ The proposed amendment to the Linkage Plan would add the PCX as a participant to the Linkage Plan on a permanent basis. The PCX has submitted a signed copy of the Linkage Plan to the Commission in accordance with the procedures set forth in the Linkage Plan regarding the admission of new participants. Sections 4(c) and 5(c)(ii) of the Linkage Plan provide for the admission of new participants, in which eligible exchanges⁶ may become a party to the plan by: (i) Executing a copy of the plan, as then in effect; (ii) effecting an amendment to the plan reflecting the addition of the new participant's name and obtaining the Commission's approval of the plan as amended to reflect the new participant; and (iii) paying the applicable fee.

After careful review, the Commission finds that the proposed Linkage Plan amendment is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission believes that the proposed amendment, which permits the PCX to become a participant to the Linkage Plan, is consistent with Congress' goal, as set forth in section 11A(a)(1)(D) of the Act,⁷ in which Congress found that the linking of all markets for qualified securities through communication and data processing facilities will foster efficiency, enhance competition, increase the information

available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders. The Commission believes the proposed amendment to include PCX as a participant in the Linkage Plan is also consistent with Rule 11Aa3-2⁸ under the Act in that it will contribute to the maintenance of fair and orderly markets and remove impediments to and perfect the mechanisms of a national market system by allowing the linked markets to more easily access better prices available on the participant exchanges. The Commission believes that it is necessary and appropriate in the public interest, for the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to allow the PCX to become a participant in the Linkage Plan. The Commission finds, therefore, that approving the proposed Linkage Plan amendment is appropriate and consistent with section 11A of the Act.⁹

III. Conclusion

It Is Therefore Ordered, pursuant to section 11A(a)(3)(B) of the Act¹⁰ and Rule 11Aa3-2 thereunder,¹¹ that the proposed Linkage Plan amendment is approved and the PCX is authorized to act jointly with the other participants to the Linkage Plan in planning, developing, operating, or regulating the intermarket linkage plan as a means of facilitating a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43573, File No. 4-429]

Joint Industry Plan; Order Approving an Amendment to the Options Intermarket Linkage Plan to Add the Philadelphia Stock Exchange, Inc. as a Participant

November 16, 2000.

I. Introduction

On September 20, 2000, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the

Securities and Exchange Commission ("SEC" or "Commission") in accordance with section 11A of the Securities Exchange Act of 1934 ("Act")¹ and Rule 11Aa3-2 thereunder,² a proposed amendment to the Options Intermarket Linkage Plan ("Linkage Plan")³ to become a participant to the Linkage Plan. Notice of filing and an order granting temporary effectiveness of the proposal through January 18, 2001 was published in the **Federal Register** on September 29, 2000.⁴ The Commission did not receive any comments on the proposal. This order approves the proposed amendment on a permanent basis.

II. Discussion

The current participants to the Linkage Plan are the Amex, CBOE, ISE, Pacific Exchange, Inc. ("PCX"), and Phlx.⁵ The proposed amendment to the Linkage Plan would add the Phlx as a participant to the Linkage Plan on a permanent basis. The Phlx has submitted a signed copy of the Linkage Plan to the Commission in accordance with the procedures set forth in the Linkage Plan regarding the admission of new participants. Sections 4(c) and 5(C)(ii) of the Linkage Plan provide for the admission of new participants, in which eligible exchanges⁶ may become a party to the plan by: (i) Executing a copy of the plan, as then in effect; (ii) effecting an amendment to the plan reflecting the addition of the new participant's name and obtaining the Commission's approval of the plan as

¹ 15 U.S.C. 78k-1.

² 17 CFR 240.11Aa3-2.

³ On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage proposed by the American Stock Exchange LLC ("Amex"), the Chicago Board Options Exchange, Inc. ("CBOE"), and the International Securities Exchange LLC ("ISE"). See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

⁴ See Securities Exchange Act Release No. 43311 (September 20, 2000), 65 FR 58584.

⁵ On September 20, 2000, the Commission approved the PCX as a participant to the Linkage Plan on a temporary basis. See Securities Exchange Act Release No. 43310 (September 20, 2000), 65 FR 58583 (September 29, 2000). The Commission notes that it is concurrently approving a proposed amendment approving the Phlx as a participant to the Linkage Plan on a permanent basis. See Securities Exchange Act Release No. 43574 (November 16, 2000).

⁶ The Linkage Plan defines an "eligible exchange" as national securities exchange registered with the Commission pursuant to Section 6(a) of the Act, 15 U.S.C. 78f(a), that is a participant in the Options Clearing Corporation and a party to the Options Price Reporting Authority Plan for Reporting of Consolidated Last Sale Reports and Quotation Information.

⁴ See Securities Exchange Act Release No. 43310 (September 20, 2000), 65 FR 58583.

⁵ On September 20, 2000, the Commission approved the Phlx as a participant to the Linkage Plan on a temporary basis. See Securities Exchange Act Release No. 43311 (September 20, 2000), 65 FR 58584 (September 29, 2000). The Commission notes that it is concurrently approving a proposed amendment approving the Phlx as a participant to the Linkage Plan on a permanent basis. See Securities Exchange Act Release No. 43573 (November 16, 2000).

⁶ The Linkage Plan defines as "eligible exchange" as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act, 15 U.S.C. 78f(a), that is a participant in the Options Clearing Corporation and a party to the Options Price Reporting Authority Plan for Reporting of Consolidated Last Sale Reports and Quotation Information.

⁷ 15 U.S.C. 78k-1(a)(1)(D).

⁸ 17 CFR 240.11Aa3-2.

⁹ 15 U.S.C. 78k-1.

¹⁰ 15 U.S.C. 78k-1(a)(3)(B).

¹¹ 17 CFR 240.11Aa3-2.

¹² 17 CFR 200.30-3(a)(29).

amended to reflect the new participant; and (iii) paying the applicable fee.

After careful review, the Commission finds that the proposed Linkage Plan amendment is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission believes that the proposed amendment, which permits the Phlx to become a participant to the Linkage Plan, is consistent with Congress' goal, as set forth in section 11A(a)(1)(D) of the Act,⁷ in which Congress found that the linking of all markets for qualified securities through communication and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders. The Commission believes the proposed amendment to include Phlx as a participant in the Linkage Plan is also consistent with the Rule 11Aa3-2⁸ under the Act in that it will contribute to the maintenance of fair and orderly markets and remove impediments to the perfect the mechanisms of a national market system by allowing the linked markets to more easily access better prices available on the participant exchanges. The Commission finds, therefore, that approving the proposed Linkage Plan amendment is appropriate and consistent with section 11A of the Act.⁹

III. Conclusion

It Is Therefore Ordered, pursuant to section 11A(a)(3)(B) of the Act¹⁰ and Rule 11Aa3-2 thereunder,¹¹ that the proposed Linkage Plan amendment is approved and the Phlx is authorized to act jointly with the other participants to the Linkage Plan in planning, developing, operating, or regulating the intermarket linkage plan as a means of facilitating a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43580; File No. SR-NASD-00-58]

Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Member Firm Transactions With Association Employees

November 17, 2000.

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 September 25, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation") 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 NASD Regulation. 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

NASD Regulation proposes to adopt new NASD Rule 3090 relating to member firm transactions with NASD employees. Proposed new language is *italicized*.

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3090. Transactions Involving Association and American Stock Exchange Employees

(a) *When a member has actual notice that an Association or American Stock Exchange employee has a financial interest in, or controls trading in, an account, the member shall promptly obtain and implement an instruction from the employee directing that duplicate account statements be provided by the member to the Association.*

(b) *No member shall directly or indirectly make any loan of money or securities to any Association or American Stock Exchange employee. Provided, however, that this prohibition does not apply to loans made in the context of disclosed, routine banking and brokerage agreements, or loans that are clearly motivated by a personal or family relationship.*

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(c) *Notwithstanding the annual dollar limitation set forth in Conduct Rule 3060(a), no member shall directly or indirectly give, or permit to be given, anything of more than nominal value to any Association or American Stock Exchange employee who has responsibility for a regulatory matter that involves the member. For purposes of this subsection, the term "regulatory matter" includes, but is not limited to, examinations, disciplinary proceedings, membership applications, listing applications, delisting proceedings, and dispute-resolution proceedings that involve the member.*

* * * * *

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 III 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 NASD Code of Conduct imposes detailed ethics and conflict-of-interest requirements on Association employees (*i.e.*, employees of the NASD and all of its subsidiary and affiliated companies). The NASD is proposing a new rule, NASD Conduct Rule 3090, that will impose parallel requirements on NASD members in their dealings with Association and American Stock Exchange ("Amex") employees.³

Proposed NASD Rule 3090 addresses three areas: (1) Providing duplicate statements for brokerage accounts in which Association or Amex employees have a financial interest or can control trading; (2) loans by NASD members to Association or Amex employees; and (3) gifts by NASD members to Association or Amex employees.

³ The Amex, whose employees are subject to the NASD Code of Conduct as of October 2000, filed a rule proposal (No. SR-Amex-00-23) to adopt Amex Rule 417, which is virtually identical to proposed NASD Rule 3090. Securities Exchange Act Release No. 43468 (October 20, 2000), 65 FR 65034 (October 31, 2000); Securities Exchange Act Release No. 43587 (November 17, 2000).

⁷ 15 U.S.C. 78k-1(a)(1)(D).

⁸ 17 CFR 240.11Aa3-2.

⁹ 15 U.S.C. 78-1.

¹⁰ 15 U.S.C. 78k-1(a)(3)(B).

¹¹ 17 CFR 240.11Aa3-2.

¹² 17 CFR 200.30-3(a)(29).