

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing 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; (3) does not become operative for 30 days from the date of filing; and (4) the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Exchange Act<sup>4</sup> and Rule 19b-4(f)(6)<sup>5</sup> thereunder.

At any time 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 these 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-ISE-00-21 and should be submitted by February 1, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-43799; International Series Release No. 1244; File No. SR-Phlx-00-111]**

**Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Temporarily Rule 1063(a) and Options Floor Procedure Advices A-10 and C-1, Which Address Trading in Foreign Currency Options**

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 January 2, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx") 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 Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis. By its terms, the proposed rule change will be effectively only until March 31, 2001.

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

The Phlx proposes to amend Phlx Rule 1063(a), Phlx Options Floor Procedure Advice A-10, and Phlx Options Floor Procedure Advice C-1. The proposed amendments would provide a temporary exception from the current requirement that a Registered Options Trader ("ROT") be present at the trading post in certain circumstances. The exception is limited to foreign currency options ("FCOs"). The proposal would also make certain non-substantive stylistic changes to Floor Procedure Advices A-10 and C-1. The text of the proposed rule change is available at the principal office of the Phlx and at the Commission

**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 included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section 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 Phlx is seeking approval of temporary amendments to Phlx Rule 1063(a) ("Responsibilities of Floor Brokers"), Phlx Options Floor Procedure Advice A-10 ("Specialist Trading With Book"), and Phlx Options Floor Procedures Advice C-1 ("Ascertaining the Presence of ROTs in a Trading Crowd"), as discussed below. Phlx Rule 1063(a) currently provides Floor Brokers that at least one ROT is present at the trading post before representing an order for execution. Phlx Options Floor Procedure Advice A-10 currently provides that in any instance where a Specialist wishes to participate as principal in a trade with an order placed on that Specialist's book, the Specialist must ensure that at least one ROT is present in the trading crowd and is aware of the Specialist's intention to trade with the book both at the time of and immediately before the order's execution. Phlx Options Floor Procedure Advice C-1 currently provides that, before executing an options order, a Floor Broker representing the order shall ascertain that at least one ROT is present in the trading crowd at the post where the order is executed.

The Phlx has been advised that as of January 3, 2001, no ROTs will be doing business on a regular basis on the Phlx's Foreign Currency Options Floor "FCO floor",<sup>3</sup> although it is possible that, depending on the ROTs' business plans and objectives, a ROT may continue to do business on the FCO floor on a part-time basis during a transition period. The Phlx believes it is likely that there will be periods of time when FCO

<sup>4</sup> 156 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</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> The Phlx's FCO trading floor is located in the same building as its equity options trading floor, but is in a different room.

Specialists and FCO Floor Brokers will be present on the FCO floor with no FCT ROTs present. The Phlx believes that compliance with Phlx Rule 1063(a) and Phlx Options Floor Procedure Advices A-10 and C-1 would not be possible under those circumstances.

The Phlx intends the proposed temporary rule change to provide an exception, effective until March 31, 2001, from the requirements in Phlx Rule 1063(a) and Phlx Options Floor Procedure Advices A-10 and C-1 that an ROT be present at the trading post in certain circumstances.<sup>4</sup> The Phlx represents that the exception would apply only if not ROT is present on the FCO floor when an FCO Specialist trades as principal with an order on the book, or when an FCO Floor Broker represents an order or executes a trade. The Phlx believes that the proposed temporary rule change would enable it to provide fair and orderly markets in FCOs in the event the FCO ROTs are absent from the FCO floor during the period that begins on the date of this Order and ends on March 31, 2001. The Phlx represents that, no later than January 12, 2001, it will file a proposed rule change seeking permanently to amend Phlx Rule 1063 and Phlx Floor Options Procedure Advices A-10 and C-1.

## 2. Statutory Basis

The Phlx believes that the proposed rule change is consistent with section 6(b) of the Act in general, and furthers the objectives of section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to transactions in securities, to remove impediments to and perfect the mechanism of a free and open market system, and, in general, to protect investors and the public interest. Moreover, the Phlx believes that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In the Phlx's view, the proposed rule change will permit Phlx Specialists to continue to trade as principal with orders on the book, and will allow Phlx Floor Brokers to continue to represent and execute orders in FCOs in the event that no ROTs are present on the FCO floor at any time from the date of this Order until March 31, 2001.

<sup>4</sup> The proposed temporary rule change also makes non-substantive changes to Phlx Rule 1063(a) and Phlx Options Floor Procedure Advices A-10 and Commission-1 by replacing the shorthand term "ROT" with the term "Registered Options Trader."

## 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

The Phlx has neither solicited nor received written comments on the proposed rule change.

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

The Commission has reviewed the Phlx's proposed rule change carefully and finds, for the reasons set forth below, that the proposal is consistent with the requirements of Section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange, particularly section 6(b)(5) of the Act.<sup>5</sup> The Commission believes that the proposed temporary rule change will enable the Phlx to provide fair and orderly markets in FCOs in the event that ROTs are absent from the FCO floor during the period beginning on the date of this Order and ending on March 31, 2001. Specifically, the Commission believes that, pursuant to the proposed temporary rule, Phlx Specialists will be able to trade as principals with FCO orders on the book and Phlx Floor Brokers will be able to represent and execute orders in FCOs at a time when the Phlx has been informed that ROTs no longer will be doing business on a regular basis on the FCO floor. In view of the foregoing, the Commission believes that the proposed rule change 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. Accordingly, the Commission finds that the proposed temporary rule change furthers the objectives of the Act.

The Phlx has requested that, pursuant to section 19(b)(2) of the act,<sup>6</sup> the Commission grant accelerated approval of the proposed rule change prior to the thirtieth day after the date of publication of notice of this filing in the **Federal Register**. The Commission finds good cause to approve the proposed temporary rule change effective immediately, so that Phlx Specialists and Floor Brokers may continue to operate in accordance with Phlx rules in

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

<sup>6</sup> 15 U.S.C. 78fs(b)(2).

the event that no ROTs are present on the FCO floor beginning January 3, 2001. The Commission expects that, no later than January 12, 2001, the Phlx will file a proposed rule change seeking permanently to amend Phlx Rule 1063 and Phlx Floor Options Procedure Advices A-10 and C-1.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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 Phlx. All submissions should refer to File No. SR-Phlx-00-111 and should be submitted by February 1, 2001.

## V. Conclusion

*It Is Therefore Ordered*, pursuant to section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (File No. SR-Phlx-00-111) is hereby approved on an accelerated basis and shall be in effect until March 31, 2001.<sup>8</sup>

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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<sup>7</sup> 15 U.S.C. 78s(b)(2).

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

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