

pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to increase fines imposed on ETP Holders, ETP Firms or associated persons of an ETP Firm of its wholly-owned subsidiary, PCX Equities, Inc. ("PCXE" or "Corporation") for violating the Exchange rules under the Minor Rule Plan. The proposed rule change was published for comment in the **Federal Register** on June 18, 2001.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend PCXE's rules governing Minor Rule Plan violations to increase most fines because the Exchange believes that the current fines are too low to deter violations of PCXE rules. The Exchange further believes that an increase in the current fines will more adequately sanction violations of the PCXE's order-handling and investigating rules. Many of these violations are processed under the Minor Rule Plan.

Under the proposed increases, the fines for disruptive conduct will be \$500 for a first violation, \$2,000 for a second and \$3,500⁴ for a third calculated on a two-year basis. More serious violations such as a member's failure to cooperate with a PCX examination of its financial responsibility or operational condition, will be fined \$2,000 for a first violation, \$4,000 for a second violation, and \$5,000 for a third violation. A member that impedes or fails to cooperate in an Exchange investigation will be fined \$3,500 for a first violation, \$4,000 for a second and \$5,000 for a third. Less serious violations such as fines for improper dress under the PCXE dress code remain the same at \$100 for the first violation, \$250 for the second and \$500 for the third.

Under the proposed rule, the Exchange's Enforcement Department would continue to exercise its discretion under PCXE Rule 10.12(j) and take cases out of the Minor Rule Plan to pursue them as formal disciplinary matters if the facts or circumstances warrant such action. The Exchange's proposal also includes amendments to PCXE's Equity Floor Procedure Advices

("EFPA") that correspond to the increased Minor Rule Plan fines.

III. Discussion

The Commission has reviewed carefully the PCX's proposed rule change and finds, for the reasons set forth below, that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,⁵ and with the requirements of Section 6(b).⁶ In particular, the Commission finds the proposal is consistent with Section 6(b)(5)⁷ of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, 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. The Commission finds the proposal is also consistent with Section 6(b)(6)⁸ of the Act, which requires that the rules of an exchange provide that its members and associated persons be appropriately disciplined for violations of the Act and the rules of the Exchange.

The Commission believes that the proposed rule change should assist the Exchange in exercising its responsibilities as a self-regulatory organization to properly conduct surveillance and to diligently monitor its members for compliance with the securities laws. The Commission also believes that increasing the fines for Minor Rule Plan violations will serve as a deterrent, and hopefully will result in fewer violations. The Commission notes, however, that the Exchange must continue to exercise its discretion under PCX Rule 10.13(f) and pursue violations of the rules included in the Minor Rule Plan as formal disciplinary matters if the facts and circumstances of the violation warrant such action.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-PCX-2001-19) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44599; File No. SR-Phlx-2001-50]

Self Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposal Rule Change Relating to the Specific Inclusion of Trade Correction Data and Exemptive Relief Information in the Specialist Evaluations Conducted by the Options Allocation, Evaluation and Securities Committee

July 26, 2001.

On May 1, 2001, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to include trade correction data and exemptive relief information in the specialist evaluations conducted by the Options Allocation, Evaluation and Securities Committee.

The proposed rule change was published for comment in the **Federal Register** on June 25, 2001.³ The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act⁶ because it is designed to perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission believes that exemptive relief and trade correction information

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 44436 (June 15, 2001), 66 FR 33734.

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 44402 (June 8, 2001), 66 FR 32856.

⁴ The Commission notes that when the PCX imposes a sanction in excess of \$2,500, it must comply with Rule 19d-1 under the Act. 17 CFR 240.19d-1.

⁵ In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(6).

⁹ 15 U.S.C. 78s(b)(2).

is relevant in evaluating a specialist unit's performance and will assist the exchange in maintaining its market.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (File No. SR-Phlx-2001-50) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44601; File No. SR-Phlx-2001-64]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Withdrawing From the Joint-Exchange Options Plan

July 27, 2001.

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 June 22, 2001, 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 Commission is publishing this notice to solicit comments on the proposed rule change from interest persons.

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

The Phlx proposes to withdraw from the Joint-Exchange Options Plan ("JEOP")³ upon the effectiveness of the proposed Options Listing Procedures Plan ("OLPP").⁴

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 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 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 effect the Exchange's withdrawal from the current JEOP. The Exchange proposes to make the withdrawal operative upon the approval of the OLPP by the Commission. The Commission approved the OLPP on July 6, 2001.⁵

The Exchange believes that the OLPP satisfies the Commission's mandates concerning procedures for the certification and listing of options. Therefore, the parties no longer need to rely on the JEOP for such procedures, but rather will follow the new procedures set forth in the OLPP.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁶ in general and furthers the objectives of Section 6(b)(5)⁷ in particular in that it is designed to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and protect investors and the public interest

provisions of the JEOP that prevent a market from commencing to list or take any option listed on another market or an option that another market has expressed an intent to list; and to eliminate any provisions of the JEOP that allow one market to delay the commencement of trading of an option by another market. See Section IV.B.a of the Order Instituting Public Administrative Proceedings Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) ("Order"). Pursuant to the Order, Amex, CBOE, PCX, and Phlx, along with the International Securities Exchange LLC and the The Options Clearing Corporation, proposed the OLPP, to replace the current JEOP. See Securities Exchange Act Release No. 44287 (May 10, 2001), 66 FR 27184 (May 16, 2001).

⁵ See Securities Exchange Act Release No. 44521 (July 6, 2001), 66 FR 36809 (July 13, 2001).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

by withdrawing the Exchange from the JEOP upon the implementation of the OLPP.

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 and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing, or such shorter time as designated by the Commission, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)⁹ 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.

The Exchange has requested that the Commission accelerate the operative date and to waive the five day pre-filing requirement so that the proposed rule change may take effect upon approval of the OLPP by the Commission. The Commission believes that it is consistent with the protection of investors and the public interest and therefore finds good cause to accelerate the operative date of the proposed rule change and to waive the five day pre-filing requirement. Acceleration of the operative date and waiving the pre-filing requirement will permit the Exchange to implement the OLPP without undue delay. For these reasons, the Commission finds good cause to designate that the proposal became

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19-4(f)(6).

⁷ 15 U.S.C. 78(s)(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In September 1991, the Commission approved the JEOP for the selecting, listing, challenging, and arbitrating the eligibility of new standardized equity options filed by the American Stock Exchange LLC ("Amex"), Chicago Board Options Exchange, Inc. ("CBOE"), New York Stock Exchange, Inc., Pacific Exchange, Inc. ("PCX"), and Phlx. See Securities Exchange Act Release No. 29698 (September 17, 1991), 56 FR 48593/4 (September 25, 1991.)

⁴ The Commission directed the Phlx, Amex, CBOE, and PCX to amend the JEOP to eliminate advance notice to other markets of the intention to list a new or existing option; to eliminate any