

applicable to a national securities exchange<sup>5</sup> and, in particular, the requirements of Section 6 of the Act<sup>6</sup> and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with the requirement of Section 6(b)(5)<sup>7</sup> because it is designed to promote just and equitable principles of trade and to protect investors and the public interest by providing for enforcement action in the event that an owner fails to pay capital funding fee. The proposed rule change is also consistent with Section 6(b)(5) of the Act<sup>8</sup> because it enables lessees to continue trading on the Exchange even when their respective lessors fail to pay fees owed to the Exchange when due.

The Commission is not required under Section 19(b)(2) of the Act<sup>9</sup> to find that a proposed rule change by a self-regulatory organization is lawful under state corporation law; in approving this proposal, the Commission is relying on the Phlx's representation that it has the general power under applicable provisions of Delaware law to adopt the Rule. The Commission is also relying on the Phlx's representations that the Rule is permissible under Pennsylvania contract law. The Commission has not independently evaluated the accuracy of Phlx's representations regarding Delaware or Pennsylvania law.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change, as amended, (SR-Phlx-99-52) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-24976 Filed 10-4-01; 8:45 am]

**BILLING CODE 8010-01-M**

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

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

<sup>8</sup> *Id.*

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44887; File No. SR-Phlx-2001-91]

### Self-Regulatory Organizations, Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Facilitate the Orderly Resumption of Trading of Non-Phlx Amex Options on the Amex Facility in New York

September 28, 2001.

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 September 28, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule exchange.

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

As part of the process to return American Stock Exchange LLC ("Amex") option products to its facility in New York,<sup>3</sup> and in order to facilitate the orderly transition of non-Phlx Amex options<sup>4</sup> back to the Amex, the Exchange proposes to adopt two temporary rules. First Phlx proposes to allow Exchange customers<sup>5</sup> to cancel

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

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

<sup>3</sup> On September 11, 2001, the Amex suffered physical damage to its New York facility following the terrorist attack on the World Trade Center. In addition, the large area surrounding the Amex was generally inaccessible due to rescue and clean-up efforts, and many basic services (such as electricity, water and communications lines) were not reestablished following the collapse of various buildings and ensuing fires. As an accommodation to the Amex, the Phlx listed certain "non-Phlx Amex options" as defined below, and offered to provide access to its options trading facilities, operations, technology and personnel to the Amex and Amex members, on a temporary basis, in order to facilitate an orderly return to national market system trading in listed equity options and index options by Amex members ("Temporary Arrangement"). The Commission approved the Temporary Arrangement on September 17, 2001. See Securities Exchange Act Release No. 44802 (September 17, 2001) (File Nos. SR-Amex-2001-80, SR-Phlx-2001-86) ("Order").

<sup>4</sup> Non-Phlx Amex options are defined, as of the close of trading on September 10, 2001, as (a) equity options trading only on the Amex, (b) equity options traded on the Amex and another options exchange, but not the Phlx, and (c) index options traded only on the Amex.

<sup>5</sup> For purposes of this proposal, "Exchange customers" means those Phlx and/or Amex

limit orders currently residing on Exchange's electronic limit order book after the close of trading on the Phlx on the trading day before the non-Phlx Amex options return to the Amex trading floor. Second, Phlx proposes a temporary rule that would require that trading in certain securities (*i.e.*, non-Phlx Amex options) be terminated at the time that the Temporary Arrangement is terminated (the "Termination Time").

Finally, the Phlx proposes to clarify that the temporary rules describe in the Order will no longer be effective and Amex Temporary Access Persons ("TAPs")<sup>6</sup> will no longer have access to the Phlx options trading facilities, operations, technology and personnel, as of the Termination Time. In this regard, Amex must submit written notification to the Exchange's Membership Services Department de-registering the Amex TAPs and clerks.

#### 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 III 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

According to the Phlx, the purpose of the proposed rule change is to facilitate the orderly resumption of trading of non-Phlx Amex options of the Amex facility in New York following their temporary listing on the Phlx facility, which was necessitated by the September 11, 2001 terrorist attacks on the World Trade Center.

Specifically, pursuant to the Order, the Phlx temporarily certified and listed, and certain Phlx specialists were granted temporary trading privileges, in non-Phlx Amex options. Upon the

members that have represented limit orders in non-Phlx Amex options currently residing on the Exchange's electronic limit order book.

<sup>6</sup> See Order, note 3, *supra*. Certain provisions in the agreement between the Phlx and the Amex concerning the Temporary Arrangement, such as limitation of liability, delegation of regulatory and enforcement jurisdiction, payment of transaction fees, and arbitration provisions, will continue to be in effect after the Termination Time.

Termination Time, non-Phlx Amex options will no longer be listed or traded on the Phlx. Therefore, the Phlx proposes a temporary rule to allow Exchange customers to cancel, after the close of trading, as described below, electronic limit orders in non-Phlx Amex options residing on the Phlx limit order book as of the Termination Time. Upon notification by the Amex that non-Phlx Amex options will resume trading on the Amex facility in New York, the Phlx would allow Exchange customers to cancel limit order residing on the Exchange's electronic limit order book as of the close of trading on the day of Termination Time.<sup>7</sup> Such cancellations would be required to take place between the hours of 4:15 p.m. and 5:30 p.m. Eastern Time on the trading day immediately preceding the date on which the Amex resumes trading on the Amex facility in New York. The Exchange anticipates that the cancellations will take place on Friday, September 28, 2001, and that the Amex will resume trading on its New York facility on Monday, October 1, 2001. Normally, cancellations, like other order types, are not permitted after the close of trading.

Orders in non-Phlx Amex options that are not cancelled by 5:30 p.m. Eastern time on the trading day immediately preceding the date on which the Amex resumes trading on the Amex facility in New York would be removed from the Phlx limit order book. This includes electronic orders delivered to the limit order book via the AUTOM system or via the Exchange's Floor Broker Order Entry System. These electronic orders will be removed by the Exchange. In addition, manual orders placed on the specialist's physical ticket limit order book, if any, will be removed by the specialist unit.

In addition, the Exchange proposes to adopt a temporary rule that would require trading in certain securities (*i.e.*, non-Phlx Amex options) to be terminated at the Termination Time. The Exchange believes that this temporary rule would satisfy the requirements of Rule 12d2-2(b) under the Act,<sup>8</sup> which provides that a national

<sup>7</sup> Notice of the time period within which Exchange customers may cancel orders for non-Phlx Amex options would be provided prior to opening of trading on the day of the Termination Time as follows: (1) Via email to Exchange customers; (2) via memorandum to be distributed on the Exchange's Options Floor to Phlx members and to Amex TAPs; (3) via electronic message to Exchange customers over the Exchange's Automated Options Market ("AUTOM") System; and (4) posted on the Exchange's web site. Actual receipt of such notice by Exchange customers shall not be pre-condition to the removal of limit orders are not canceled at of 5:30 p.m. on the day of Termination Time.

<sup>8</sup> 17 CFR 240.12d2-2(b).

securities exchange (*i.e.*, the Phlx) may strike a security from listing and registration thereon if (i) trading in such security has been terminated pursuant to a rule of such exchange requiring such termination whenever the security is admitted to trading on another exchange; and (ii) listing and registration of such security has become effective on such other exchange. The Phlx's certification of the non-Phlx Amex options was pursuant to a temporary rule that terminates at the Termination Time, and thus, requires termination of trading of non-Phlx Amex options on the Exchange.

Finally, the Phlx proposes to clarify that the temporary rules described in the Order will no longer be effective, and Amex TAPs<sup>9</sup> will no longer have access to the Phlx options trading facilities, operations, technology and personnel, as of the Termination Time. In this regard, Amex must de-register the Amex TAPs by submitting written notification to the Exchange's Membership Services Department.

## 2. Basis

For these reasons, the Phlx believes that the proposed rule change is consistent with Section 6 of the Act,<sup>10</sup> in general, and with Section 6(b)(5) of the Act,<sup>11</sup> specifically, because it is designed to promote just and equitable principles of trade, and foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and the national market system, and, in general, protect investors and the public interest by facilitating the orderly resumption of trading of non-Phlx Amex options on the Amex facility in New York following their temporary listing and trading on the Phlx facility.

### *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.

<sup>9</sup> See Order, note 3, *supra*.

<sup>10</sup> 15 U.S.C. 78f.

<sup>11</sup> 15 U.S.C. 78f(b)(5).

## III. 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 submissions, 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 the filing will also be available for inspection and copying at the principal office of Phlx. All submissions should refer to File No. SR-Phlx-2001-91 and should be submitted by October 26, 2001.

## IV. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission notes that the proposed rule change was submitted in response to the emergency situation that resulted from the September 11, 2001 attacks on the World Trade Center in New York City. As a result of the attacks, the Amex facilities were damaged and could not be opened when the U.S. markets reopened on September 17, 2001. To accommodate the opening of trading of Amex options and to accommodate trading by Amex members, the Phlx and Amex submitted temporary rules, which the Commission approved on September 17, 2001.<sup>12</sup>

The Commission now understands that the Amex facility has been substantially restored and is scheduled to be open for trading on October 1, 2001. Accordingly, Phlx proposes to terminate trading in non-Phlx Amex options as of the close of trading on the day before trading opens on the Amex's New York facility, which is anticipated to be September 28, 2001. In addition, Phlx proposes to permit Exchange customers to cancel orders that may be on the Phlx limit order book when trading closes on the trading day before trading opens on the Amex New York facility.

<sup>12</sup> See Order, note 3 *supra*.

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 exchange.<sup>13</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires, among other things, that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 believes that Exchange customers should be provided the opportunity to cancel orders that remain on the Phlx limit order book before the Exchange or Phlx specialist cancels the orders for them. The Commission notes that when the Amex facility reopens, non-Phlx Amex options will not longer be traded on the Phlx. Thus, the Commission believes that it is appropriate to allow Exchange customers to decide how they want their orders that remain on the Phlx limit order book handled. Further, because the Exchange will no longer trade non-Phlx Amex options, the Commission believes that it is reasonable for the exchange or Phlx specialist to cancel those remaining orders that are not canceled by the Exchange customer.

The Commission also finds that the Phlx proposal to terminate trading in non-Phlx Amex options upon the Amex's reopening to be consistent with the Act. As noted above, the Phlx listed the non-Phlx Amex options as a temporary measure to help address the emergency situation that arose from Amex's inability to reopen its New York facility following the attacks on, and resulting collapse of, the World Trade Center.<sup>15</sup>

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date

<sup>13</sup> In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>15</sup> The Commission notes that this temporary rule does not restrict Phlx's ability to list non-Phlx Amex options at any time. In the Commission's view, the temporary Phlx rule requiring termination of trading of non-Phlx Amex options as of the Termination Time is appropriate in light of the emergency situation that necessitated the temporary listing of these options on the Phlx and, under these circumstances, is consistent with Rule 19c-5 under the Exchange Act. 17 CFR 240.19c-5.

of publication of the notice of filing in the **Federal Register**. The Commission believes that it is necessary to approve the proposed rule change on an accelerated basis to further facilitate the Temporary Arrangement.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>16</sup> that the proposed rule changes (SR-Phlx-2001-91) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-24977 Filed 10-4-01; 8:45 am]

**BILLING CODE 8010-01-M**

## **SOCIAL SECURITY ADMINISTRATION**

### **President's Commission To Strengthen Social Security**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Announcement of meeting.

**DATES:** October 18, 2001 10 a.m.—3 p.m.

**ADDRESSES:** Washington, DC—Venue to be determined. Due to unforeseen circumstances the venue has not been identified to date. This information will be published in the **Federal Register** and posted at [www.CSSS.gov](http://www.CSSS.gov) as soon as it is available.

**SUPPLEMENTARY INFORMATION:** *Type of meeting:* The meeting will be open to the public between 10 a.m. and 3 p.m., with a break for lunch between Noon and 1 p.m.

*Purpose:* This is the fourth deliberative meeting of the Commission. No public testimony will be heard at this meeting. However, interested parties are invited to attend the meeting.

*Agenda:* The Commission will meet commencing Thursday, October 18, at 10 a.m. and ending at 3 p.m., with a break for lunch between Noon and 1 p.m. A series of panels will present testimony to members of the Commission. Panelists will include young Americans, academics, and technical experts.

*Future Meeting Dates:* November 9, 2001 (Washington, DC; location to be determined). Records are being kept of all Commission proceedings that are subject to public release under the Federal Advisory Committee Act and are available for public inspection at the Commission's office at the address below. Documents such as meeting

<sup>16</sup> 15 U.S.C. 78s(b)(2).

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

announcements, agendas, transcripts, minutes, and Commission reports will be available on the Commission's web page. Anyone requiring information regarding the Commission should contact Commission staff by:

- Internet at <http://www.CSSS.gov>;
- Mail addressed to President's Commission to Strengthen Social Security, 734 Jackson Place, NW, Washington, DC, 20503;
- Telephone at (202) 343-1255;
- E-mail to [Comments@CSSS.gov](mailto:Comments@CSSS.gov).

Dated: September 28, 2001.

**Michael A. Anzick,**

*Designated Federal Officer.*

[FR Doc. 01-24944 Filed 10-4-01; 8:45 am]

**BILLING CODE 4191-02-P**

## **SOCIAL SECURITY ADMINISTRATION**

### **Privacy Act of 1974, as Amended; Computer Matching Program Social Security Administration (SSA) and Immigration and Naturalization Service (INS)**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of computer matching program.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct.

**DATES:** SSA will file a report of the subject matching program with the Committee on Government Affairs of the Senate, the Committee on Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefax to (410) 597-0841, or writing to the Associate Commissioner for Program Support, 2-Q-16 Operations Bldg, 6401 Security Boulevard, Baltimore, MD 21235.

All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Associate Commissioner for Program Support as shown above.

**SUPPLEMENTARY INFORMATION:**

#### **A. General**

The Computer Matching and Privacy Protection Act of 1998 (Pub. L. 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in