

among members and other users of facilities operated or controlled by a national securities association. Section 15A(b)(6)¹³ requires rules that foster cooperation and coordination with persons engaged in facilitating transactions in securities and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq believes that this service provides beneficial information to customers and that the fees for reports are equitably allocated on the basis of the size, frequency, and type of report sold to a particular customer. Nasdaq also believes that licensing the redistribution of the information will respond to customer requests for licensing arrangements and will allow broader dissemination of the information.

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

Nasdaq 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

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 NASD 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 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 Nasdaq. All submissions should refer to file number SR-NASD-2001-59 and should be submitted by November 13, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[(Release No. 34-44938; File No. SR-PCX-2001-35)]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating To Split Price Executions of Auto-Ex Orders

October 15, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on August 31, 2001, the Pacific Exchange, Inc. ("PCX" 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 PCX. The proposed rule change has been filed by the PCX as a "non-controversial" rule change under Rule 19b-4(f)(6)³ under the Act. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

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

The PCX proposes to adopt Rule 6.87(p) permitting split-price executions. Below is the text of the proposed rule change. Proposed new language is *italicized*.

* * * * *

Rule 6.87(a)-(m)—No change.

(n)-(o)—Reserved.

(p) *Auto-Ex Split-Price Executions.*
When the best bid or offer on the Exchange's book constitutes the best bid or offer on the Exchange, contra-side incoming Auto-Ex orders will be executed as follows:

(1) When the best bid or offer on the Exchange's book constitutes the best bid or offer on the Exchange and is for a size less than the Auto-Ex guaranteed size for the issue, that best bid or offer will be denoted in the Exchange's disseminated quote by a "Book Indicator." An incoming Auto-Ex order will be executed against the order in the book. In the event the order in the book is for a smaller number of contracts than the Auto-Ex order, the balance of the Auto-Ex order up to the firm quote size for the issue will be assigned to Market-Makers on the Auto-Ex wheel at the same price at which the initial portion of the order was executed. Any remaining balance thereafter will be:

(A) Assigned to market Makers on the Auto-Ex wheel at the Auto-Quote price if Auto-Quote constitutes the new prevailing market bid or offer that is equal to or better than the NBBO; or

(B) Executed against any order in the book that constitutes the new prevailing market bid or offer with the balance of the Auto-Ex order being assigned to Market Makers on the Auto-Ex wheel at that price up to the firm quote size. Any additional remaining balance of an Auto-Ex order shall be handled in accordance with (A) or (B) of this paragraph.

(2) Notwithstanding paragraph (1) above, if the bid or offer generated by the Exchange's Auto-Quote system (or any Exchange approved proprietary quote generation system used in lieu of the Exchange's Auto-Quote system) crosses or locks the Exchange's best bid or offer established by an order in the Exchange's customer limit order book, or is outside the NBBO, then Auto-Ex orders for options of that series will not be automatically executed but instead will be rerouted to Floor Broker Hand-Held Terminals or to another location in the event of system problems or contrary firm routing instructions. These rerouted orders will be executed in accordance with Rule 6.86.

¹³ 15 U.S.C. 78o-3(b)(6).

Commentary:

.01 For purposes of this rule, the firm quote size is the minimum quotation size established by Rule 6.86.

* * * * *

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 PCX 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 PCX 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 proposed rule change will permit split-price executions of Auto-Ex orders when the book represents the best PCX market and is for a size less than the Auto-Ex guaranteed size for the issue.⁴ In such cases, the book's best bid or offer will be denoted by a "Book Indicator" and the incoming Auto-Ex order will be executed against the actual book size. The balance of the Auto-Ex order up to the firm quote size⁵ for the issue will be assigned to Market Makers on the Auto-Ex wheel at the same price at which the initial portion of the order was executed. If any portion of the Auto-Ex order remains unfilled, the balance of the order will be executed at the next prevailing bid or offer, *i.e.*, the book price and/or the Auto-Quote price. The NBBO will be checked after each quote update to ensure that automatic executions do not occur at inferior prices.

If the bid or offer generated by the Exchange's Auto-Quote system (or any Exchange approved proprietary quote generation system used in lieu of the Exchange's Auto-Quote system) crosses or locks the Exchange's best bid or offer established by an order in the Exchange's customer limit order book, or is outside the NBBO, then Auto-Ex orders for options of that series will not be automatically executed but instead

⁴ The Exchange represents that the proposed rule change is, in large part, adapted from Chicago Board Options Exchange Rule 6.8(d)(iv). See Securities Exchange Act Release No. 44244 (May 1, 2001), 66 FR 23283 (May 8, 2001).

⁵ The firm quote size is the minimum quotation size established by PCX Rule 6.86.

will be rerouted to Floor Broker Hand-Held Terminals or to another location in the event of system problems or contrary firm routing instructions.

These rerouted orders will be executed in accordance with Rule 6.86.

Currently, when the book represents the best PCX market and is for a size less than the Auto-Ex guaranteed size for the issue, the incoming Auto-Ex order will be executed against the actual book size and the balance of the order up to the Auto-Ex guarantee size for the issue will be assigned to Market Makers on the Auto-Ex wheel at the same price that the initial portion of the order was executed. For example, assume the Auto-Ex guarantee is 100 and the firm quote size is 20. If the book contains an order for one contract that represents the best bid, an incoming market order to sell 100 contracts will execute against the book for one contract and then against Market Makers logged onto Auto-Ex for 99 remaining contracts at the book price, regardless of the trading crowd's best bid. Under the split-price execution proposal, 19 contracts of the sell order will be assigned to Market Makers logged onto Auto-Ex for sale at the book price and the balance of the order will be executed at the next prevailing bid or offer, *i.e.*, the book price and/or the Auto-Quote price. The NBBO will be checked after each quote update to ensure that automatic executions do not occur at inferior prices.

2. Statutory Basis

The Exchange believes that this proposal is consistent with Section 6(b)⁶ of the Act, in general, and furthers the objectives of Section 6(b)(5),⁷ in particular, in that it is designed to facilitate transactions in securities, to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitation transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

⁶ 15 U.S.C. 78(B).

⁷ 15 U.S.C. 78f(b)(5).

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

Written comments on the proposed rule change were neither solicited nor received.

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; and (3) does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)⁹ thereunder.

The PCX did not request that the Commission waive the 30-day delay in the operative date of the proposed rule change pursuant to Section 19(b)(3)(A)(iii) under the Act. Accordingly, the proposed rule change became operative on October 1, 2001.

At any time within 60 days of the filing of the proposed rule change, as amended, 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.¹⁰

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

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78(b)(3)(C).

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 PCX.

All submissions should refer to File No. SR-PCX-2001-35 and should be submitted by November 13, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-26488 Filed 10-19-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44930; File No. SR-Phlx-2001-77]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Exchange Rule 625, Trading Floor Training, Equity Floor Procedure Advice F-30, and Options Floor Procedure Advice F-30

October 12, 2001.

On August 9, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") 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 amend Phlx Rule 625 ("Trading Floor Training"), Equity Floor Procedure Advice F-30, and Options Floor Procedure Advice F-30 (collectively referred to as "Advice F-30")³ to allow the Exchange to require from time to time its members and their respective personnel to attend mandatory training sessions related to conduct, health and

safety on the Exchange's equity and options trading floors (collectively referred to as "trading floor"). The Phlx also proposed to amend the fine schedule in Equity Floor Procedure Advice F-30 to be consistent with the fine schedule in the corresponding Options Floor Procedure Advice.⁴ Notice of the proposed rule change appeared in the **Federal Register** on August 30, 2001.⁵ The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act⁶ in general, and the rules and regulations thereunder.⁷ In particular, the Commission believes that the proposal is consistent with Section 6(c)(3)(B) of the Act,⁸ which provides, among other things, that a national securities exchange may require its members to meet certain standards of training, experience and competence as prescribed by the rules of an exchange. The Commission believes that requiring, providing notice of, and conducting training sessions related to conduct, health and safety on the trading floor by the Exchange should promote a safer work environment by informing Exchange members and their respective personnel of important issues related to the Exchange's trading floor.

The Commission also finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁹ which requires that the rules of the exchange provide for the equitable allocation of reasonable dues, fees, and other charges to exchange members, in that the Exchange's proposed fine schedule for its Equity Floor Procedure is consistent with the already existing fine schedule of the Exchange's Option Floor Procedures.¹⁰

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-Phlx-2001-77) be, and hereby is, approved.

⁴ The fine schedule applicable to Options Floor Procedure Advice F-30 was recently amended and reflects the same fines as proposed herein. See Securities Exchange Act Release No. 44537 (July 11, 2001), 66 FR 37511 (July 18, 2001) (order approving SR-Phlx-2001-36).

⁵ See Securities Exchange Act Release No. 44742 (August 23, 2001), 65 FR 45885.

⁶ 15 U.S.C. 78f.

⁷ In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(c)(3)(B).

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ See note 4, *supra*.

¹¹ 15 U.S.C. 78s(b)(2)

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

Margaret H. McFarland,
Deputy Secretary.

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104-13 effective October 1, 1995. The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20503
(SSA), Social Security Administration, DCFAM, Attn: SSA Reports Clearance Officer, 1-A-21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-4145, or by writing to him at the address listed above.

1. Employer Report of Special Wage Payments—0960-0565. The Social Security Administration (SSA) gathers the information on Form SSA-131 to prevent earnings related overpayments to employees and to avoid erroneous withholding. The respondents are employers who provide special wage payment verification.

¹² 17 CFR 200.30-3(a)(12).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Advice F-30 and the accompanying fine schedules are part of the Exchange's minor rule violation and reporting plan ("minor rule plan"). The Exchange's minor rule plan, codified in Phlx Rule 970 ("Floor Procedure Advices: Violations, Penalties, and Procedures"), contains floor procedure advices with accompanying fine schedules such that a minor rule violation and reporting plan citation could be issued. Rule 19d-1(c)(2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting. 17 CFR 240.19d-1(c)(2). Rule 19d-1(c)(1) under the Act requires prompt filing with the Commission of any final disciplinary actions. 17 CFR 240.19d-1(c)(1). However, minor rule violations not exceeding \$2,500 are deemed not final, thereby permitting periodic, as opposed to immediate reporting.