

section 15A(b)¹³ and section 19(b)(2) of the Act¹⁴ to approve the proposed rule change, as amended, on an accelerated basis.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposal, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,¹⁵ that the proposed rule change (SR-NASDA-2001-76), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45184; File No. SR-Phlx-2001-98]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendments No. 1 and 2 Relating to the Establishment of a Remote Specialist Program

December 21, 2001.

On October 22, 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 establish a remote specialist program.

The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on November 12, 2001.³ No comments were received on the proposal. The proposal was amended on November 29, 2001.⁴ In this order, the Commission is

approving the proposed rule change, as amended.

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 exchange⁵ and, in particular, with the requirements of section 6(b)(5).⁶

The Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act⁷ 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 a remote specialist program will assist the Exchange in maintaining an efficient and open market.

The Commission approves this proposed rule change provided that the Exchange meet the following conditions: (i) The Exchange shall have place specific information barrier policies and surveillance policies that are consistent with the Exchange's existing rules and that are acceptable to the Commission's Office of Compliance Inspections and Examinations ("OCIE"); (ii) each remote PACE terminal shall be individually identified and associated with (an) authorized and qualified specialist(s) and/or registered clerk(s) and will require a non-transferable Remote Authorization; and (iii) all registered specialists and clerks, except those currently operating as floor specialists and clerks, must complete a floor training program.⁸ The training may be waived by the Exchange for people in exceptional circumstances if other arrangements are made with and approved by the Exchange. However, a waiver will only be permitted if the Exchange is assured that the person

to John Riedel, Attorney Adviser, Division of Market Regulation ("Division"), Commission, dated November 28, 2001 ("Amendment No. 2"). In Amendment No. 2, several technical edits are made to subsection (n) of proposed rule 461 that do not need to be published for comment.

⁵ 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).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(5).

⁸ The floor training must include, among other things: communication procedures with Floor Brokers, PACE Desk, Surveillance, Systems Support, and ITS coordination with the Floor; remote/competing specialist program and Unlisted Trading Privilege applications and procedures, stock allocation procedures; trading halt procedures; and books and records/reports available.

requesting the waiver has made other arrangements that ensure that the person meet all of the training requirements. The training may not be waived for easily remedied reasons such as geographical location or inconvenience.

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after notice of the publication in the **Federal Register**. Amendment No. 2 makes minor technical changes to the proposed rule language, dealing with non-transferability of the remote authorizations. The Commission therefore finds that acceleration of Amendment No. 2 is appropriate.

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether the proposed amendments are 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 amendments that are filed with the Commission, and all written communications relating to the amendments 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2001-98 and should be submitted by January 25, 2002.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-Phlx-2001-98), as amended, 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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⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

¹³ 15 U.S.C. 78o-3(b).

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ *Id.*

¹⁶ 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. 45014 (November 2, 2001), 66 FR 56888.

⁴ See letter from Carla Behnfeldt, Director, Legal Department New Product Development Group, Phlx