

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, in the event of any disruption or malfunction in the use or operation of the ArcaEx trading facility, only the Chief Executive Officer or President may declare a transaction arising out of the use of the facility during the period of such disruption or malfunction null and void or modify the terms of such transaction. Absent extraordinary circumstances, any such action of the Chief Executive Officer or President would be taken within thirty (30) minutes of detection of the erroneous transaction. Each ETP Holder involved in the transaction would be notified as soon as practicable, and the ETP Holder aggrieved by the action could appeal such action in accordance with the provisions of PCXE Rule 10.13.

The Exchange is proposing to amend PCXE Rule 7.11(d) to confer authority on a PCXE officer designated by the Corporation who, in addition to the Chief Executive Officer and President, may nullify transactions or modify their terms arising out of any disruption or malfunction in the ArcaEx trading system. This rule change will provide the PCXE with more flexibility in making time-sensitive decisions in the absence or unavailability of the Chief Executive Officer or President. The proposed rule amendment parallels PCXE Rule 7.11(b) relating to executions that are "clearly erroneous" when there is an obvious error in the terms of an order, such as price, quantity or identification of the security. The rule change also adds language to Rule 10.13 regarding appeals for non-disciplinary matters by clarifying that any ETP Holder aggrieved by an officer's determination under the PCXE's "Clearly Erroneous Policy" may appeal such action. Proposed Rule 10.13(a)(5) reiterates the statement in Rule 7.11 that any determination made by the Corporation under this policy is subject to the provisions of Rule 10.13.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)³ of the Act, in general, and further the objectives of Section 6(b)(5),⁴ in particular, because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities,

and to remove impediments and perfect the mechanisms of a free and open market and to protect investors and the public interest.

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 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

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

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 self-regulatory organization 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 proposal 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 PCX. All submissions should refer to File No. PCX-2002-63 and should be submitted by November 12, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-26786 Filed 10-21-02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46660; File No. SR-Phlx-2002-50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Permanent Approval of the Pilot Program Providing for Broker-Dealer Access to AUTOM

October 15, 2002.

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 September 18, 2002, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") submitted to 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. On October 2, 2002, Phlx submitted Amendment No. 1 to the proposed rule change.³ On October 9, 2002, Phlx submitted Amendment No. 2 to the proposed rule change.⁴ The proposed rule change, as amended, has been filed by the Phlx as a "non-controversial" rule change under

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Richard Rudolph, Director and Counsel, Phlx, to Jennifer Colihan, Division of Market Regulation ("Division"), Commission dated October 1, 2002. In Amendment No. 1, Phlx requested that the filing be designated as a non-controversial rule change pursuant to section 19(b)(3)(A) of the Act. In addition, the rule text was amended to reflect permanent changes to the rule that were approved in Securities Exchange Act Release No. 46296 (August 1, 2002), 67 FR 52506 (August 12, 2002) (SR-Phlx-2002-37). Finally, the Exchange represented that since the commencement of the pilot, it has not experienced any issues relating to capacity or its ability to receive, route, and automatically execute orders for the account(s) of broker-dealers via AUTOM.

⁴ See letter from Richard Rudolph, Director and Counsel, Phlx, to Jennifer Colihan, Division, Commission, dated October 9, 2002. In Amendment No. 2, the rule text was amended to accurately reflect the text that was approved on a pilot basis. See Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002) (SR-Phlx-2001-40).

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

Rule 19b-4(f)(6)⁵ under the Act. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Phlx proposes to adopt, on a permanent basis, Exchange Rules 1080(b)(i)(C) and 1080(b)(ii), and Commentary .05 to Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X).⁶ The rules had previously been approved on a six-month pilot basis (the "pilot").⁷ The pilot, scheduled to expire on October 15, 2002, permits access to AUTOM, the Exchange's electronic options order routing, delivery, execution and reporting system, to off-floor broker-dealers, and allows the automatic execution of eligible broker-dealer orders on an issue-by-issue basis.

The text of the proposed rule change is available at the Office of the Secretary, 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, Phlx included statements concerning the purpose of and basis for the proposed rule change, as amended, 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. Phlx has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

⁵ 17 CFR 240.19b-4(f)(6). For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under section 19(b)(3)(C) of the Act, the Commission considers that period to commence on October 9, 2002, the date the Phlx filed Amendment No. 2. See 15 U.S.C. 78s(b)(3)(C).

⁶ AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO-X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor.

⁷ See Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002) (SR-Phlx-2001-40).

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 permit off-floor broker-dealers, on a permanent basis and subject to certain restrictions designed to ensure the maintenance of a fair and orderly market, to have electronic access through AUTOM to the specialist's limit order book and the Exchange's automatic execution system ("AUTO-X").⁸ The Exchange is proposing permanent approval of the proposed rule change to remain competitive, and to improve the efficiency with which orders for the account(s) of broker-dealers are currently executed. The Exchange believes that providing broker-dealers with access to the specialist's limit order book and automatic executions would promote more efficient and expeditious execution of broker-dealer orders than under the prior Exchange practice of re-routing to a Floor Broker booth. Under the prior Exchange practice, such orders were represented in the crowd by a Floor Broker after such Floor Broker's receipt thereof.⁹

The Exchange also believes that the proposed rule change is consistent with the purposes underlying the Commission mandate to adopt new, or amend existing, rules that substantially enhance incentives to quote competitively and substantially reduce disincentives for market participants to act competitively.¹⁰ The Exchange believes that providing broker-dealers

⁸ The electronic "limit order book" is the Exchange's automated specialist limit order book, which automatically routes all unexecuted AUTOM orders to the book and displays orders real-time in order of price-time priority. Orders not delivered through AUTOM may also be entered onto the limit order book. See Exchange Rule 1080, Commentary .02.

⁹ Prior to the implementation of the pilot, incoming broker-dealer orders delivered via AUTOM were ineligible for delivery to the specialist, such that they were rejected by the system and routed either to the appropriate Floor Broker booth or to the point of origin of the order. Such orders were either represented by the appropriate Floor Broker on the Exchange or rerouted to the originating broker or dealer.

¹⁰ The Exchange notes that on September 11, 2000, the Commission issued an order, which requires the Exchange (as well as the other respondent options exchanges, American Stock Exchange LLC, Chicago Board Options Exchange, Inc. ("CBOE"), and Pacific Exchange, Inc.) to implement certain undertakings. See Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3-10282.

with access to the specialist's limit order book and the Exchange's AUTO-X system should eliminate any actual or perceived technological advantage the specialist may have respecting access to the limit order book.

The proposal would permit certain off-floor broker-dealer limit orders to be eligible for entry into AUTOM. Generally, off-floor broker-dealer limit orders up to 200 contracts, depending on the option, would be eligible for AUTOM order delivery on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee, however, may determine to increase the eligible order delivery size, on an issue-by-issue basis. The proposed rule change provides that the following types of off-floor broker-dealer limit orders are eligible for AUTOM: day, GTC, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order. The purpose of this provision is to ensure that off-floor broker-dealers do not have an actual or perceived disadvantage respecting on-floor specialists and registered options traders ("ROTs").

Proposed Commentary .05 would establish certain conditions and restrictions on the use of AUTOM, as explained further below. First, the proposed rule states that orders for the account(s) of off-floor broker-dealers must be represented on the Exchange floor by a floor member. The proposed rule contemplates that such a floor member may be a floor broker or the specialist. The Exchange believes that the proposed rule change should result in more orders being handled electronically (as opposed to the previous practice of causing broker-dealer orders to be handled manually), thereby enhancing the audit trail for broker-dealer orders. Second, the proposed rule provides that off-floor broker-dealer orders delivered via AUTOM shall be for a minimum size of one (1) contract.

Third, proposed Commentary .05 states that the restrictions and prohibitions concerning electronically generated orders and off-floor market makers set forth in Exchange Rules 1080(i) and (j) apply to orders entered for the account(s) of off-floor broker-dealers. Exchange Rule 1080(i) prohibits members from entering, permitting, or facilitating the entry of, orders into AUTOM if those orders are created and communicated electronically without manual input (*i.e.*, order entry by public customers or associated persons of members must involve manual input such as entering the terms of an order into an order-entry screen or manually

selecting a displayed order against which an off-setting order should be sent).¹¹

Rule 1080(j) prohibits members from entering, or facilitating the entry of, into AUTOM, as principal or agent, limit orders in the same options series from off the floor of the Exchange, for the account or accounts of the same or related beneficial owners, in such a manner that the off-floor member or the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis.¹²

Fourth, proposed Commentary .05 provides that off-floor broker-dealer limit orders entered via AUTOM establishing a bid or offer may establish priority, and the specialist and crowd may match such a bid or offer and be at parity, subject to the yield provisions of Exchange Rule 1014. The proposed rule change provides that the specialist and any other ROT then in the trading crowd may match an off-floor broker-dealer's bid or offer. The Exchange believes that allowing a specialist or ROT to match an off-floor broker-dealer's order, and thus be on parity, would preserve the important affirmative market-making obligations of specialists and ROTs.

Fifth, the proposed rule change provides that off-floor broker-dealer limit orders that are eligible for execution via AUTO-X entered via AUTOM for the account(s) of the same beneficial owner may not be entered in options on the same underlying security more frequently than every 15 seconds.¹³ The purpose of this provision is to remain consistent with recently adopted Exchange rules that include such a 15-second restriction against orders entered via AUTOM for the account(s) of the same beneficial owner in options on the same underlying security more frequently than every 15 seconds.¹⁴

Finally, the proposal also allows off-floor broker-dealer limit orders to be executed automatically, on an issue-by-issue basis subject to the approval of the Exchange's Options Committee, via AUTO-X, which is the automatic execution feature of AUTOM. The Exchange believes that this should enable the Phlx to be competitive with other options exchanges that allow automatic executions for broker-dealer orders by assuring broker-dealers sending their proprietary orders to the Exchange that electronic delivery and execution of such orders would not be interrupted.

The proposed rule change allows the AUTO-X guarantee for off-floor broker-dealer limit orders to be for a different number of contracts, on an issue-by-issue basis, than the AUTO-X guarantee for public customer orders, subject to the approval of the Options Committee.¹⁵ In August, 2002, however, the Commission approved proposed changes to the rule that require specialists to guarantee automatic executions for off-floor broker-dealer orders for a minimum of 10 contracts in Top 120 options.¹⁶ The Exchange believes that these provisions are consistent with the recently expanded Quote Rule¹⁷ and recently adopted Exchange Rules that allow different firm size guarantees for customers than for broker-dealers.¹⁸

The proposed rule change provides that AUTO-X eligible off-floor broker-dealer limit orders may be eligible for automatic execution via the Exchange's National Best Bid or Offer ("NBBO") Step-Up Feature.¹⁹ Engagement of the NBBO Step-Up Feature is not mandatory for off-floor broker-dealer orders, but rather may be engaged on an issue-by-issue basis (subject to the approval of the Options Committee).

The Exchange represents that, since the commencement of the pilot, it has not experienced any issues relating to capacity or its ability to receive, route, and automatically execute orders for the account(s) of broker-dealers via AUTOM.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with section 6(b) of the Act²⁰ in general, and with section 6(b)(5) of the Act²¹ specifically, in that it is designed to perfect the mechanism of a free and open market and a national market system, protect investors and the public interest and promote just and equitable principles of trade by providing off-floor broker-dealers increased access to the specialist's limit order book, and automatic executions, which should provide incentives for Phlx market participants to quote competitively, and which in turn should result in competitive pricing and enhanced liquidity on the Exchange specifically, and in the options markets in general.

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

The Phlx does not believe that the proposed rule change, as amended, 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, as amended, does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; (3) 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, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to that date, it has become effective pursuant to section 19(b)(3)(A) of the Act²² and Rule 19b-4²³ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)²⁴ normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)²⁵ permits the Commission to designate a shorter time if such action is consistent with the protection of

¹¹ See Securities Exchange Act Release No. 43376 (September 28, 2000), 65 FR 59488 (October 5, 2000) (SR-Phlx-00-79).

¹² See Securities Exchange Act Release No. 43939 (February 7, 2001), 66 FR 10547 (February 15, 2001) (SR-Phlx-01-05).

¹³ Recently, the Exchange filed proposed amendments to this provision that would provide that the Options Committee may, on an issue-by-issue basis, determine to permit the entry of such multiple orders upon the request of the specialist registered in the issue. Such permission shall not exempt Order Entry Firms and Users from any other provision in this Rule, including, without limitation, the prohibition against unbundling in Phlx Rule 1080(b)(iv); the prohibition against the entry of electronically generated orders in Phlx Rule 1080(i); and the prohibition against effectively operating as a market-maker from off floor in Rule 1080(j). See SR-Phlx-2002-40.

¹⁴ See Exchange Rule 1080(c)(ii).

¹⁵ The Exchange believes that this amended provision should result in a larger number of AUTO-X eligible orders delivered electronically to the Exchange.

¹⁶ See Securities Exchange Act Release No. 46296 (August 1, 2002), 67 FR 52506 (August 12, 2002) (SR-Phlx-2002-37).

¹⁷ 17 CFR 240.11Ac1-1.

¹⁸ See Exchange Rule 1082.

¹⁹ The NBBO Step-Up Feature automatically executes eligible orders at the NBBO when the Exchange's disseminated quote is inferior to the NBBO. For a complete description of the NBBO Step-Up Feature, see Securities Exchange Act Release No. 43684 (December 6, 2000), 65 FR 78237 (December 14, 2000) (partially approving SR-Phlx-00-93).

²⁰ 15 U.S.C. 78f(b).

²¹ 15 U.S.C. 78f(b)(5).

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4.

²⁴ 17 CFR 240.19b-4(f)(6).

²⁵ 17 CFR 240.19b-4(f)(6)(iii).

investors and the public interest. The Phlx has requested that the Commission waive the 30-day operative delay. In order to allow the pilot to continue on an uninterrupted basis, the Commission believes waiving the 30-day operative date is consistent with the protection of investors and the public interest.²⁶ In addition, the Commission notes that the Exchange represents that, since the commencement of the pilot, it has not experienced any issues relating to capacity or its ability to receive, route, and automatically execute orders for the account(s) of broker-dealers via AUTOM. For these reasons, the Commission designates the proposal to be effective and operative on October 15, 2002.

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.²⁷

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 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-2002-50 and should be submitted by November 12, 2002.

²⁶ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²⁷ See note *supra*.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-26783 Filed 10-21-02; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3451]

State of Mississippi; [Amendment #1]

In accordance with a notice received from the Federal Emergency Management Agency, dated October 6, 2002, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on September 23, 2002, and continuing through October 6, 2002.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is December 2, 2002, and for economic injury the deadline is July 1, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 15, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02-26833 Filed 10-21-02; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice: 4165]

30-Day Notice of Information Collection; Form DS-19, Passport Amendment/Validation Application; OMB Number 1405-0007

AGENCY: Department of State, Bureau of Consular Affairs, Passport Services.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Extension of a currently approved collection.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

²⁸ 17 CFR 200.30-3(a)(12).

Title of Information Collection: Passport Amendment & Validation Application.

Frequency: On Occasion.

Form Number: DS-19.

Respondents: Individuals or Households.

Estimated Number of Respondents: 230,912.

Average Hours Per Response: 1/12 hr. (5 min).

Total Estimated Burden: 19,243.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT:

Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202-633-2460. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202-395-3897.

Dated: September 30, 2002.

Florence G. Fultz,

Acting Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 02-26854 Filed 10-21-02; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice 4166]

30-Day Notice of Proposed Information Collection: Form DS-64, Statement Regarding a Lost or Stolen Passport; OMB #1405-0014

AGENCY: Department of State, Bureau of Consular Affairs, Passport Services.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of