

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48563; File No. SR-Phlx-2003-30]

Self-Regulatory Organizations; Notice of Filing and Order Accelerating Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Implementing a Pilot Program Relating to the Book Sweep Function of the Exchange's Automated Options Market System

September 29, 2003.

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 23, 2003, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by Phlx. On August 19, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.³ On September 12, 2003, the Exchange filed Amendment No. 2 to the proposed rule change.⁴ On September 17, 2003, the Exchange filed Amendment No. 3 to the proposed rule change.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and is approving the proposal on an accelerated basis.

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

The Exchange proposes to adopt new Rule 1080(c)(iii) concerning a new feature of the Exchange's Automated Options Market ("AUTOM") System,⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated August 18, 2003 ("Amendment No. 1"). Amendment No. 1 replaced the original Form 19b-4 in its entirety.

⁴ See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated September 11, 2003 ("Amendment No. 2"). In Amendment No. 2, Phlx amended the text of the proposed rule change to specify when the Book Sweep function would be engaged or disengaged.

⁵ See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated September 16, 2003 ("Amendment No. 3"). In Amendment No. 3, Phlx proposed to implement the Book Sweep function on a six-month pilot basis.

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

designed to automatically execute limit orders on the book when the Exchange's electronic options pricing system, Auto-Quote, or a specialist's quote sent to the Exchange via specialized quote feed ("SQF"), locks or crosses a limit order on the book. This feature is called "Book Sweep." Below is the text of the proposed rule change. Proposed new language is *italicized*.

* * * * *

Rule 1080. (a)-(b) No change.

(c)(i)-(ii) No change.

(iii) *Book Sweep. Book Sweep is a feature of AUTOM which, when engaged, does the following: when the bid or offer generated by the Exchange's Auto-Quote system (or by a proprietary quoting system provided for in Commentary .02 of this Rule called "Specialized Quote Feed" or "SQF") matches or crosses the Exchange's best bid or offer in a particular series as established by an order on the limit order book, orders on the limit order book in that series will be automatically executed and allocated among crowd participants signed onto the Wheel. If Book Sweep is not engaged at the time the Auto-Quote or SQF bid or offer matches or crosses the Exchange's best bid or offer represented by a limit order on the book, the specialist may manually initiate the Book Sweep feature. Book Sweep shall be engaged when AUTO-X is engaged, and shall be disengaged when AUTO-X is disengaged in accordance with Rule 1080(c)(iv) and Rule 1080(e). Eligible orders on the limit order book will be automatically executed up to the size associated with the quote that matches or crosses such limit orders.*

(iv)-(v) No change.

(d)-(j) No change.

Commentary

No change.

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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 and discussed any comments it received on the proposed rule change. The text of these statements

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. See Exchange Rule 1080.

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.

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 further automate options order handling by adopting a new rule reflecting a system enhancement to the Exchange's AUTOM system, called Book Sweep, that would allow certain orders resting on the limit order book⁷ to be automatically executed in the situation where the bid or offer generated by the Exchange's Auto-Quote⁸ system (or by a proprietary quoting system called "Specialized Quote Feed" or "SQF")⁹ locks (*i.e.*, 2 bid, 2 offer) or crosses (*i.e.*, 2.10 bid, 2 offer) the Exchange's best bid or offer in a particular series as established by an order on the limit order book. Orders executed by the Book Sweep feature would be allocated among crowd participants participating on the Wheel.¹⁰

The Book Sweep feature should provide for more timely and efficient execution of marketable limit orders on the book. Currently, when the Auto-Quote or SQF bid or offer locks or crosses a booked order, the specialist handles the execution manually after being alerted by the system that one or more limit orders on the book are marketable and due an execution. This situation can occur for several series in the same option, requiring multiple executions of booked limit orders in each such series to be carried out by the specialist, which can be a time-consuming and burdensome process.

Book Sweep Size. Book Sweep would function by automatically executing a

⁷ 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.

⁸ Auto-Quote is the Exchange's electronic options pricing system, which enables specialists to automatically monitor and instantly update quotations. See Exchange Rule 1080, Commentary .01(a).

⁹ See Exchange Rule 1080, Commentary .01(b)(i).

¹⁰ The "Wheel" is a feature of AUTOM that allocates contra-party participation respecting automatically executed trades among the specialist and Registered Options Traders ("ROTs") signed onto the Wheel for that listed option. See Exchange Rule 1080(g). See also Option Floor Procedure Advice ("OPFA") F-24.

number of contracts not to exceed the size associated with the quotation that locks or crosses a limit order on the book. The purpose of this provision is to make automatic executions in the Book Sweep function consistent with the Exchange's rules relating to AUTO-X, the automatic execution feature of AUTOM. The Exchange no longer has an artificial "AUTO-X guarantee" applicable to an option. Instead, the Exchange currently provides automatic executions for eligible orders¹¹ delivered via AUTOM at the Exchange's disseminated price, up to the disseminated size, for both customer and broker-dealer orders.¹² Because the Exchange's disseminated size (and thus its guaranteed AUTO-X size) is fluid, in order to achieve consistency, the Exchange proposes that the number of contracts to be executed via Book Sweep be equal to the size associated with the quote that locks or crosses the limit order on the book.¹³

When a quote generated by Auto-Quote or SQF locks or crosses a limit order on the book, there are three possible scenarios that may occur. First, if such a quote is for a number of contracts that is equal to the size associated with the limit order on the book, the entire limit order would be executed. For example, if a limit order is resting on the book with a size of 200 contracts, and the size associated with the quote that locks or crosses such a limit order is 200 contracts, the entire limit order on the book would be executed, and Auto-Quote or SQF would refresh the quote (including the size associated with such a quote).

The second possible scenario is that the size associated with a quote that locks or crosses a limit order on the book could be for a greater number of

contracts than the size associated with the booked limit order. In such a situation, the entire size of the limit order would be executed. For example, if a limit order is resting on the book with a size of 200 contracts, and size associated with the quote that locks or crosses such a limit order is 300 contracts, the entire limit order would be executed. Following the execution, Auto-Quote or SQF would refresh the quote (including the size associated with such a quote).

Finally, the third possible scenario is that the size associated with the quote that locks or crosses a limit order on the book would be for fewer contracts than the size associated with the booked limit order. In this situation, the limit order would be partially executed automatically at the size associated with the quote that locks or crosses the limit order,¹⁴ and Auto-Quote or SQF would refresh the quotation. For example, if a limit order is resting on the book with a size of 200 contracts, and the size associated with the quote that locks or crosses such a limit order is 100 contracts, Book Sweep would generate an automatic execution for 100 contracts, leaving 100 contracts resting on the limit order book, and Auto-Quote or SQF would refresh the quote. If the refreshed quote locks or crosses the remaining contracts in the limit order resting on the book, Book Sweep would initiate an automatic execution for the size associated with the refreshed quote. If the refreshed bid or offer is for a price that is inferior to the remaining contracts in the limit order on the book, such that the limit order represents the Exchange's best bid or offer, the price and size of the limit order would be disseminated by the Exchange. If the refreshed bid or offer is for a price that is superior to the price of the remaining limit order, the Exchange would disseminate the refreshed bid or offer, and the remaining limit order would rest on the limit order book until it becomes due for execution or is cancelled.

Manual Book Sweep. Book Sweep would be engaged when AUTO-X is engaged, and would be disengaged when AUTO-X is disengaged.¹⁵

¹⁴ Under Exchange Rule 1082(b) all quotations made available by the Exchange and displayed by quotation vendors shall be firm for customer and broker-dealer orders at the disseminated price in an amount up to the disseminated size. See also Rule 11Ac1-1 under the Act, 17 CFR 240.11Ac1-1.

¹⁵ Exchange Rule 1080(c)(iv) provides that an order otherwise eligible for AUTO-X will instead be manually handled by the specialist in the following situations:

(A) The Exchange's disseminated market is crossed (*i.e.*, 2 $\frac{1}{8}$ bid, 2 offer), or crosses the disseminated market of another options exchange;

However, the Exchange proposes to allow specialists to engage Book Sweep manually when orders are received when AUTO-X is disengaged, and Auto-Quote or SQF matches or crosses the Exchange's best bid or offer in a particular series as established by an order on the limit order book. The purpose of this provision is to enable the specialist to execute limit orders on the book that are due for execution more efficiently by manually initiating Book Sweep (rather than executing such orders individually), thus providing more efficient executions and ensuring that the specialist may maintain a fair and orderly market when such orders become due for execution.

The Exchange expects to deploy Book Sweep as supporting systems become available, on an issue-by-issue basis over a period to be determined.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁶ in general and furthers the objectives of Section 6(b)(5)¹⁷ in particular, in that it is designed to perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest. The Exchange believes that Book Sweep should help provide

(B) One of the following order types: Stop, stop limit, market on closing, market on opening, or an all-or-none order where the full size of the order cannot be executed;

(C) The AUTOM System is not open for trading when the order is received (which is known as a pre-market order);

(D) The disseminated market is produced during an opening or other rotation;

(E) When the specialist posts a bid or offer that is better than the specialist's own bid or offer;

(F) If the NBBO Feature, described in Exchange Rule 1080(c)(i), is not engaged, and the Exchange's bid or offer is not the NBBO;

(G) When the price of a limit order is not in the appropriate minimum trading increment pursuant to Exchange Rule 1034;

(H) When the bid price is zero respecting sell orders; and

(I) When the number of contracts automatically executed within a 15 second period in an option (subject to a pilot program until November 30, 2003) exceeds the specified disengagement size, a 30 second period ensues during which subsequent orders are handled manually.

The Exchange notes that Rule 1080(c)(iv) was adopted to address the requirement in the *Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Sanctions*, Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3-10282 (the "Order") that the Exchange adopt new, or amend existing, rules concerning automatic quotation and execution systems which specify the circumstances, if any, under which automated execution systems be disengaged or operated in any manner other than the normal manner.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

¹¹ For a list of circumstances in which orders otherwise eligible for AUTO-X are instead manually handled by the specialist, see Exchange Rule 1080(c)(iv). See also Securities Exchange Act Release No. 45927 (May 15, 2002), 67 FR 36289 (May 23, 2002) (SR-Phlx-2001-24).

¹² See Securities Exchange Act Release No. 47646 (April 8, 2003), 68 FR 17976 (April 14, 2003) (SR-Phlx-2003-18).

¹³ The Exchange notes that the Chicago Board Options Exchange ("CBOE") currently has rules and systems in place regarding its "Trigger" mechanism, which includes a functionality similar to that set forth in the instant proposal. See CBOE Rule 6.8(d)(v). See also Securities Exchange Act Release No. 44462 (June 21, 2001), 66 FR 34495 (June 28, 2001) (SR-CBOE-00-22) (Order approving the CBOE Autoquote Triggered EBook Execution). The Exchange notes that, by rule, the CBOE "Trigger" function will not automatically execute a number of contracts in excess of the RAES guaranteed size. While the instant proposal is based in part on the CBOE "Trigger," it is distinguished from that function in that an order executed via Book Sweep would be executed for a number of contracts up to the size associated with the quote that locks or crosses a booked limit order.

faster executions for investors, while reducing the burden on the Exchange's specialists with respect to the manual execution of booked orders.

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

The Exchange 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. 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 Phlx. All submissions should refer to File No. SR-Phlx-2003-30 and should be submitted by October 27, 2003.

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

After careful review, 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, and, in particular, the requirements of Section 6 of the Act.¹⁸ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act, which requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, as well as to remove impediments

¹⁸ In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.¹⁹ The Commission believes that the proposed rule change, as amended, should help to facilitate the more efficient execution of orders when Auto-Quote or SQF locks or crosses the Exchange's best bid or offer in a series, as established by an order on the limit order book. Moreover, the Exchange proposes to implement the Book Sweep function as a six-month pilot program, which will enable the Exchange and the Commission to evaluate its operation before the function is permanently approved.

The Commission further finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the Exchange's proposed Book Sweep system is similar to functions that the Commission has previously approved for use on other exchanges,²⁰ and would be implemented on a pilot basis. Therefore, the Commission believes that it is appropriate to grant accelerated approval to the proposal.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²¹ that the proposed rule change (SR-Phlx-2003-30) is hereby approved on an accelerated basis, as a pilot program scheduled to expire on March 31, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²²

Jill M. Peterson,

Assistant 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

¹⁹ 15 U.S.C. 78f(b)(5).

²⁰ See Securities Exchange Act Release No. 44468 (June 21, 2001), 66 FR 34505 (June 28, 2001) (SR-PCX-00-03) (Order approving PCX "Auto-Ex Book" system), and Securities Exchange Act Release No. 44462 (June 21, 2001), 66 FR 34495 (June 28, 2001) (SR-CBOE-00-22) (Order approving CBOE Autoquote Triggered EBook Execution system).

²¹ 15 U.S.C. 78s(b)(2).

²² 17 CFR 200.30-3(a)(12).

Pub. L. 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

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. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Building, Room 10235, 725 17th St., NW., Washington, DC 20503, Fax: 202-395-6974.
(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-965-6400.

I. The information collections listed below are pending at SSA and 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 410-965-0454 or by writing to the address listed above.

1. *Continuation of Full Benefit Standard for Persons Institutionalized—20 CFR 416.212—0960-0516.* SSA is required by law to establish procedures for collecting information on whether an Supplemental Security Income (SSI) recipient who becomes institutionalized (e.g. hospital, nursing home) may be eligible for continued benefits, based on the full federal benefit rate, if a physician certifies that the expected period of medical confinement will last no more than 90 days. The individual (or someone acting on his/her behalf) must demonstrate the need to pay some or all of the expenses of maintaining the home. The respondents are applicants for SSI benefits.

Type of Request: Extension of an OMB-approved information collection.