

Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PCX-2003-51 and should be submitted on or before June 9, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49690; File No. SR-Phlx-2004-24]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Trading Hours of Canadian Dollar Foreign Currency Options

May 12, 2004.

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 April 16, 2004, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. On April 19, 2004, the Phlx submitted Amendment No. 1 to the proposed rule

change.<sup>3</sup> 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 modify its hours of business for dealings upon the Exchange to change the opening of Canadian dollar foreign currency options ("FCO") trading from 7 a.m. eastern time (e.t.) to 2:30 a.m. e.t.

#### 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 IV 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

The purpose of the proposed rule change is to conform the trading hours of Canadian dollar FCOs to the trading hours of other FCOs.<sup>4</sup> This proposed rule change is to provide notification of the proposal to modify the hours of business for dealings in Canadian dollar contracts.<sup>5</sup> The Exchange previously

<sup>3</sup> See letter from Angela Saccomandi Dunn, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 16, 2004 ("Amendment No. 1"). In Amendment No. 1, the Phlx corrected a typographical error in the original filing. 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 April 19, 2004, the date the Phlx filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

<sup>4</sup> In 1993, Phlx filed a proposed rule change to amend Rule 101 to provide that all FCO trading, except FCOs on the Canadian dollar, will be conducted between 1:30 a.m. ET and 2:30 p.m. ET each business day. See Securities Exchange Act Release No. 33246 (November 24, 1993), 58 FR 63421 (December 1, 1993) (File No. SR-Phlx-93-42). Subsequently, the trading hours were modified to move the opening of FCO trading from 1:30 a.m. ET to 2:30 a.m. ET for all Phlx-listed FCOs except the Canadian dollar. See Securities Exchange Act Release No. 34898 (October 26, 1994), 59 FR 54651 (November 1, 1994) (File No. SR-Phlx-94-47).

<sup>5</sup> The Exchange has represented that it intends to notify its membership of the change in trading hours for Canadian dollar FCOs through a circular

filed a proposed rule change to amend Phlx Rule 101, which provides that FCO trading sessions shall be conducted at such times as the Phlx Board of Governors shall specify between 6 p.m. Sundays and 3 p.m. Fridays.<sup>6</sup> In connection with the proposed rule change amending Phlx Rule 101, the Exchange committed to make future filings under section 19(b)(3)(A) of the Act,<sup>7</sup> any time it expands or changes FCO trading hours in connection with Phlx Rule 101.<sup>8</sup>

The Exchange believes that the increased trading hours should allow investors greater access to trading in Canadian dollar FCOs and increased flexibility to meet the exchange rate risk protection and hedging needs of European-based market participants.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that it is designed to promote just and equitable principles of trade and protect investors and the public interest.

##### 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 with respect to the proposed rule change, as amended.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended, has been designated as a practice with respect to the administration of an existing rule, it has become effective pursuant to Section 19(b)(3)(A)(i) of the Act<sup>11</sup> and

to members. Telephone conversation between Angela Saccomandi Dunn, Counsel, Phlx, and Marisol Rubecindo, Law Clerk, Division, Commission, on May 4, 2004.

<sup>6</sup> See Securities Exchange Act Release No. 26087 (September 16, 1988), 53 FR 36930 (September 22, 1988) (File No. SR-Phlx-88-25).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> See Securities Exchange Act Release No. 26087 (September 16, 1988), 53 FR 36930 (September 22, 1988) (File No. SR-Phlx-88-25).

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>10</sup> 17 CFR 200.30-3(a)(29).

<sup>11</sup> 15 U.S.C. 78s(b)(1).

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

Rule 19b-4(f)(1)<sup>12</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, 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.

#### 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. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2004-24 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Phlx-2004-24. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Section, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions

should refer to File Number SR-Phlx-2004-24 and should be submitted on or before June 9, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49697; File No. SR-Phlx-2004-18]

### Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Make Permanent a Pilot Program Relating to the Book Sweep Function of the Exchange's Automated Options Market System

May 13, 2004.

#### I. Introduction

On March 1, 2004, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), filed with the Securities and Exchange Commission ("Commission") a proposed rule change 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> to make permanent a pilot program relating to a current enhancement to the Exchange's Automated Options Market ("AUTOM") System,<sup>3</sup> which is designed to automatically execute limit orders on the book when the bid or offer generated by the Exchange's Auto-Quote<sup>4</sup> system (or by a proprietary quoting system called "Specialized Quote Feed" or "SQF")<sup>5</sup> locks or crosses a limit order on the book, thus rendering such limit order marketable. The proposed rule change was published for comment in

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 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 features. 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.

<sup>4</sup> 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).

<sup>5</sup> See Exchange Rule 1080, Commentary .01(b)(i).

the **Federal Register** on March 11, 2004.<sup>6</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description

On September 29, 2003, the Commission approved a six-month pilot enhancement to the Exchange's AUTOM system, called Book Sweep.<sup>7</sup> The Book Sweep pilot was subsequently extended until the earlier of July 1, 2004 or such time as the Commission approves the Book Sweep feature on a permanent basis.<sup>8</sup> The Exchange now seeks permanent approval of the Book Sweep pilot.

Book Sweep allows certain orders resting on the limit order book<sup>9</sup> to be automatically executed when the bid or offer generated by the Exchange's Auto-Quote system (or by the SQF) locks (*i.e.*, \$1.00 bid, \$1.00 offer) or crosses (*i.e.*, \$1.05 bid, \$1.00 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 are allocated among crowd participants participating on the Wheel.<sup>10</sup> 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 as represented by a limit order on the book,<sup>11</sup> the specialist may manually engage Book Sweep so that certain orders in the limit order book can be automatically executed. Prior to the deployment of Book Sweep, when the Auto-Quote or SQF bid or offer locked or crossed a booked order, the specialist handled the execution manually after being alerted by the system that one or more limit orders on the book have

<sup>6</sup> See Securities Exchange Act Release No. 49365 (March 4, 2004), 69 FR 11690.

<sup>7</sup> See Securities Exchange Act Release No. 48563 (September 29, 2003), 68 FR 57724 (October 6, 2003) (SR-Phlx-2003-30).

<sup>8</sup> See Securities Exchange Act Release No. 49459 (March 23, 2004), 69 FR 16629 (March 30, 2004) (SR-Phlx-2004-21).

<sup>9</sup> 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.

<sup>10</sup> The "Wheel" is a feature of AUTOM that allocates contra-party participation respecting automatically executed trades among the specialist and registered options traders signed onto the Wheel for that listed option. See Exchange Rule 1080(g). See also Option Floor Procedure Advice F-24.

<sup>11</sup> Book Sweep would be engaged when AUTO-X is engaged, and would be disengaged when AUTO-X is disengaged. See Exchange Rule 1080(c)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(1).