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

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 Phlx 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.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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.* Please include File Number SR–Phlx–2004–51 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–2004–51. 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. Copies of this filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posed 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–2004–51 and should be submitted on or before January 17, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 04–27938 Filed 12–21–04; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50856; File No. SR–Phlx–2004–91]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Establish a Directed Order Process for Orders Delivered to the Exchange Via AUTOM

December 14, 2004.

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 December 9, 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Phlx proposes to amend Phlx Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM)[3] and Automatic Execution System (AUTO–X), and Phlx Rule 1014, Obligations And Restrictions Applicable to Specialists And Registered Options Traders, by adopting: (1) New Phlx Rule 1080(l), Directed Orders, under which Exchange specialists, Streaming Quote Traders (''SQTs'')[4] and Remove Streaming Quote Traders (''RSQTs'')[5] trading on the Exchange's electronic options trading platform, Phlx XL,[6] would receive Directed Orders (as defined below); and (2) Phlx Rule 1014(g)(viii), which would set forth the trade allocation algorithm for electronically executed and allocated trades involving Directed Orders. Below is the text of the proposed rule change. Proposed new language is in *italics.*

Philadephia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X)

Rule 1080. (a)–(k) No change.

(l) Directed Orders. For a one-year pilot period, beginning on the date of approval of this Rule by the Securities and Exchange Commission, respecting Streaming Quote Options traded on Phlx XL, specialists, RSQTs and SQTs may receive Directed orders (as defined in this Rule) in accordance with the provisions of this Rule 1080(l).

(i)(A) The term ''Directed Order'' means any customer order to buy or sell which has been directed to a particular specialist, RSQT, or SQT by an Order Flow Provider, as defined below. To quality as a Directed Order, an order must be delivered to the Exchange via AUTOM.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 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, AUTO–X, Book Sweep and Book March. 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* Phlx Rule 1080.

[4] An SQT is an Exchange Registered Options Trader (''ROT'') who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange approved proprietary electronic quoting device in eligible options to which such SQT is assigned. *See* Phlx Rule 1014(b)(ii)(A).

[5] An RSQT is a participant in the Exchange's electronic trading system. ''Phlx XL'', who has received permission from the Exchange to trade in options for his own account, and to generate and submit option quotations electronically from off the floor of the Exchange through AUTOM in eligible options to which such RSQT has been assigned.

[6] *See* Securities Exchange Act Release No. 50100 (July 27, 2004), 69 FR 46612 (August 3, 2004) (SR–Phlx–2003–59).

(B) The term ''Order Flow Provider'' (''OFP'') means any member or member organization that submits, as agent, customer orders to the Exchange.

(C) The term ''Directed Specialist, RSQT, or SQT'' means a specialist, RSQT, or SQT that receives a Directed Order.

(ii) When the Exchange's disseminated price is the NBBO at the time of receipt of the Directed Order, and the Directed Specialist, SQT or RSQT is quoting at the Exchange's disseminated price, the Directed Order shall be automatically executed and allocated in accordance with Rule 1014(g)(viii).

(iii) When the Exchange's disseminated price is the NBBO, and the quotation disseminated by the Directed Specialist, RSQT, or SQT on the opposite side of the market from the Directed Order is inferior to the NBBO at the time of receipt of the Directed Order, the Directed Order shall be automatically executed and allocated to those quotations and orders at the NBBO in accordance with Exchange Rule 1014(g)(vii).

(iv) If the Exchange's disseminated price is not the NBBO at the time of receipt of the Directed Order, the Directed Order shall be handled by the specialist in accordance with Exchange rules.

Commentary: No change.

Obligations and Restrictions Applicable to Specialists and Registered Options Traders

Rule 1014.(a)–(f) No change.

(g)(i)–(vii) No change.

(viii) For a one year pilot period, beginning on the date of approval of this Rule by the Securities and Exchange Commission, Directed Orders (as defined in Rule 1080(l)(i)(A)) that are executed electronically shall be automatically allocated as follows:

(A) First, to customer limit orders resting on the limit order book at the execution price.

(B) Thereafter, contracts remaining in the Directed Order, if any, shall be allocated automatically as follows:

(1) The Directed Specialist (where applicable), shall be allocated a number of contracts that is the greater of:

(a) The proportion of the aggregate size at the NBBO associated with such Directed Specialist's quote, SQT and RSQT quotes, and non-SQT ROT limit orders entered on the book via electronic interface at the disseminated price represented by the size of the Directed Specialist's quote;

(b) The Enhanced Specialist Participation as described in Rules 1014(g)(ii)–(iv); or

(c) 40% of the remaining contracts.

(d) Thereafter, SQTs and RSQTs quoting at the disseminated price, and non-SQT ROTs that have placed limit orders on the limit order book via electronic interface at the Exchange's disseminated price shall be allocated contracts according to the following formula;

Equal percentage based on the Number of SQTs, RSQTs and Non-SQT ROTs quoting or with limit orders at BBO (Component A) + *Pro rata percentage based on size of SQT, RSQT and non-SQT quotes and limit orders (Component B)* × *Remaining Order Size*

Where:

Component A: The percentage to be used for Component A shall be an equal percentage, derived by dividing 100 by the number of SQTs, RSQTs and non-SQTs quoting or with limit orders at the BBO.

Component B: Size Pro Rata Allocation. The percentage to be used for Component B of the allocation algorithm formula is that percentage that the size of each SQT, RSQT or non-SQT ROT's quote or limit order at the best price represents relative to the total number of contracts in the disseminated quote.

Final Weighting: The final weighting formula shall be determined by a three-member special committee of the Board of Governors, chaired by the Chairman of the Board, and including the Chairman of the Options Committee and one on-floor Governor (the ''Special Committee''), and shall be a weighted average of the percentages derived for Components A and B multiplied by the size of the incoming order.

(2)(a) A Directed RSQRT or SQT (where applicable) shall be allocated a number of contracts that is the greater of the proportion of the aggregate size at the NBBO associated with such Directed SQT or RSQT's quote, the specialist's quote, other SQT and RSQT quotes, and non-SQT ROT limit orders entered on the book via electronic interface at the disseminated price represented by the size of the Directed RSQT or SQT's quote at the NBBO, or

(b) 40% of the remaining contracts.

(c) Thereafter, the specialist, SQTs and RSQTs (excluding the Directed SQT or RSQT) quoting at the disseminated price, and non-SQT ROTs that have placed limit orders on the limit order book via electronic interface at the Exchange's disseminated price, shall be allocated a number of contracts according to the following formula:

Equal percentage based on the number of SQTs, RSQTs, specialist and Non-SQT ROTs quoting or with limit orders at BBO (Component A) + *Pro rata percentage based on size of SQT, RSQT, specialist and non-SQT quotes and limit orders (Component B)* × *Remaining Order Size*

Where:

Component A: The percentage to be used for Component A shall be an equal percentage, derived by dividing 100 by the number of SQTs, RSQTs (other than the Directed SQT or RSQT) specialist and non-SQTs quoting or with limit orders at the BBO.

Component B: Size Pro Rata Allocation. The percentage to be used for Component B of the allocation algorithm formula is that percentage that the size of each SQT, RSQT RSQTs (other than the Directed SQT or RSQT), specialist or non-SQT ROT's quote or limit order at the best price represents relative to the total number of contracts in the disseminated quote.

Final Weighting: The final weighting formula shall be determined by a three-member special committee of the Board of Governors, chaired by the Chairman of the Board, and including the Chairman of the Options Committee

and one on-floor Governor (the ''Special Committee''), and shall be a weighted average of the percentages derived for Components A and B multiplied by the size of the incoming order.

(3) If any contracts remain to be allocated after the specialist, SQTs, RSQTs and non-SQT ROTs with limit orders on the limit order book have received their respective allocations, off-floor broker-dealers (as defined in Rule 1080(b)(i)(C)) that have placed limit orders on the limit order book which represent the Exchange's disseminated price shall be entitled to receive a number of contracts that is the proportion of the aggregate size associated with off-floor broker-dealer limit orders on the limit order book at the disseminated price represented by the size of the limit order they have placed on the limit order book.

(C) If the Directed Order is for a size that is greater than the Exchange's disseminated size, remaining contracts shall be allocated manually accordance with Exchange Rule 1014(g)(v).

(D) A Directed Specialist, RSQT, or SQT shall not be entitled to receive a number of contracts that is greater than the size associated with their quotation. Non-SQT ROTs and off-floor broker-dealers shall not be entitled to receive a number of contracts that is greater than the size associated with their limit order.

(h) No change.

Commentary: No change.

* * * * *

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 had 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

I. Purpose

The purpose of the proposed rule change is to expand the appeal of Phlx XL by establishing rules that permit specialists, SQTs and RSQTs assigned in options trading on the Phlx XL system (''Streaming Quote Options'') to receive Directed Orders, and to establish a trade allocation algorithm for electronically executed and allocated trades involving Directed Orders that rewards Directed Specialists, SQTs and RSQTs for attracting such order flow to the Exchange.

On July 27, 2004, the Commission approved the Exchange's proposed rule relating to Phlx Xl, and electronic options trading platform in which a new category of Exchange ROT, known as an SQT, is permitted to stream proprietary electronic options quotations into the AUTOM System in options designated as ''Streaming Quote Options'' (*i.e.,* traded on Phlx XL).[7] Recently, the Exchange filed a proposed rule change to expand the scope of Phlx XL by creating a new category of Phlx XL market making participant, known as an RSQT, who would be permitted to stream quotations in Streaming Quote Options from off the floor of the Exchange.[8] Together with that proposed rule change, the Exchange herein proposes to provide a participation guarantee to a Phlx XL participant (*i.e.,* a specialist, SQT or RSQT) that receives a Directed Order from an Order Flow Provider.

Definitions. Proposed Phlx Rule 1080(1)(A) would define the term ''Directed Order'' to mean any customer order to buy or sell which has been directed to a particular specialist, RSQT, or SQT by an Order Flow Providers, as defined below. To qualify as a Directed Order, an order must be delivered to the Exchange via AUTOM. The term ''Order Flow Provider'' (''OFP') under proposed Phlx Rule 1080(1)(i)(B) would mean any member or member organization that submits, as agent, customer orders to the Exchange. Proposed Phlx Rule 1080(1)(i)(C) defines the term ''Directed Specialist, RSQT, or SQT'' as a specialist, RSQT, or SQT that receives a Directed Order.[9]

NBBO Requirement. The Exchange's AUTOM System currently functions to provide automatic executions in Streaming Quote Options only when the Exchange's disseminated bid or offer is the National Best Bid or Offer (''NBBO'').[10] Therefore, in order to participate in automatic executions of Directed Orders, a Directed Specialist, SQT or RSQT would be required to be quoting the NBBO at the time the Directed Order is received. The proposed rule change addresses various situations where, at the time of receipt of the Directed Order, the Exchange's disseminated price is at the NBBO, is not the NBBO, and where the Exchange's disseminated price is the NBBO but the Directed Specialist, SQT or RSQT is not quoting at the Exchange's disseminated price.

First, proposed Phlx Rule 1080(l)(ii) would provide that, when the Exchange's disseminated price is the NBBO at the time of receipt of the Directed Order, and the Directed Specialist, SQT or RSQT is quoting at the Exchange's disseminated price, the Directed Order would be automatically executed and allocated in accordance with Phlx Rule 1014(g)(viii), which contains the allocation algorithm for Directed Orders described more fully below.

Second, proposed Phlx Rule 1080(l)(iii) would provide that, when the Exchange's disseminated price is the NBBO, and the quotation disseminated by the Directed Specialist, RSQT, or SQT on the opposite side of the market from the Directed Order is inferior to the NBBO at the time of receipt of the Directed Order, the Directed Order would be automatically executed and allocated in those quotations and orders at the NBBO in accordance with Phlx Rule 1014(g)(vii), which is the trade allocation rule applicable to contracts executed on Phlx XL that are not Directed Orders.[11]

Finally, proposed Phlx Rule 1080 (l)(iv) would provide that, when the Exchange's disseminated price is not the NBBO at the time of receipt of the Directed Order, the Directed Order would be handled manually by the specialist in accordance with Exchange rules. In this situation, the Directed Specialist, SQT or RSQT would not be entitled to receive the participation guarantee contemplated in proposed Phlx Rule 1014(g)(viii), discussed more fully below, because that allocation algorithm applies only to Directed Orders that are executed electronically.

As stated above, one primary purpose of the proposal is to reward Directed Specialists, SQTs and RSQTs for establishing relationships with OFPs

[7] *See id.*

[8] *See* SR–Phlx–2004–90.

[9] The word ''Directed'' modifies all three; that is, it is referring to a Directed Specialist, Directed SQT and Directed RSQT.

[10] The Exchange's automatic execution features under Phlx XL, Book Sweep and Book Match, respectively, are designed to execute trades automatically only when the Exchange's disseminated bid or offer is at or equal to the NBBO. *See* Phlx Rules 1080(c)(iii) and 1080(g)(ii).

[11] Phlx Rule 1014(g)(vii) sets forth the allocation algorithm applicable to orders that are automatically executed on Phlx XL. Phlx Rule 1014(g)(vii) would continue to apply to orders other than Directed orders that are automatically executed on Phlx XL. Proposed Phlx Rule 1014(g)(viii) would apply to Directed Orders that are executed automatically of Phlx XL.

that result in a greater number of orders sent to, and executed on, the Exchange. The Exchange believes that the requirement that a Directed Order be executed automatically at the NBBO, and that the Directed Specialist, SQT or RSQT must be quoting the NBBO at the time of receipt of the Directed Order, ensures that the customer order sent by the OFP will receive the best price available.

Trade Allocation. Because one of the main purposes of the proposed rule change is to provide incentives and rewards for specialists, SQTs and RSQTs who enter into relationships with OFPs that result in the delivery of Directed Orders to the Exchange, proposed Phlx Rule 1080(g)(viii) would provide a participation guarantee to Directed Specialists, SQTs and RSQTs who establish such relationships and receive Directed Orders in options in which they are assigned.

Quoting Requirement. In order to be entitled to receive the participation guarantee, Directed Specialists, SQTs and RSQTs would have to fulfill the quoting requirements contained in Phlx Rule 1014(b)(ii)(B). Currently, SQTs and RSQTs (as proposed) are responsible to quote continuous, two-sided markets in not less than 60% of the series in each Streaming quote Option traded on Phlx XL in which such SQT is assigned, while the specialists is required to quote continuous, two-sided markets in not less than 100% of the series in each Streaming Quote Option in which such specialist is assigned.[12] Like the specialist, however, a directed SQT or RSQT would be responsible to quote continuous, two-sided markets in not less than 100% of the series in each Streaming quote Option in which they receive Directed Orders.

Directed Specialist. Under the proposal, a directed Specialist, where applicable, would be allocated a number of contracts that is the greater of: (1) The proportion of the aggregate size at the NBBO associated with such Directed Specialist's quote, SQT and RSQT quotes, and non-SQT ROT limit orders entered on the book via electronic interface at the disseminated price represented by the size of the directed Specialist's quote (*i.e.,* their size pro rata share); (2) the Enhanced Specialist Participation as described in Phlx Rules 1014(g)(ii)–(iv);[13] or (3) 40% of the contracts to be allocated.

Directed SQT or RSQT. A Directed RSQT or SQT, where applicable, would be allocated a number of contracts that is the greater of: (1) Their size pro rata share; or (2) 40% of the contracts to be allocated.

Allocation of Remaining Contracts. Remaining contracts (after the Directed Specialist, SQT or RSQT has received their respective allocation) would be allocated in accordance with a formula contained in the rule that substantially tracks the trade allocation formula for contracts executed and allocated automatically in Streaming Quote Options that do not involve Directed Orders. Specifically, part of the contracts remaining after customer orders are filled and after the Directed Specialist, SQT or RSQT has received their guaranteed participation would be allocated on an equal basis among remaining participants on parity, and part of the contracts allocated on a size pro rata basis, and on a weighted basis to be determined by the special ad hoc subcommittee appointed by the Board.[14]

In the case of a trade allocation involving a Directed Specialist, contracts remaining after customer orders at the execution price are executed, and after the Directed Specialist is allocated their guaranteed number of contracts (the ''Remaining Order Size'') would be allocated according to the following formula:

Equal percentage based on the Number of SQTs, RSQTs and Non-SQT ROTs quoting or with limit orders at BBO (Component A) + *Pro rata percentage based on size of SQT, RSQT and non-SQT quotes and limit orders (Component B)* × *Remaining Order Size*

The percentage to be used for Component A would be an equal percentage, derived by dividing 100 by the number of SQTs, RSQTs or non-SQTs quoting or with limit orders at the BBO. The percentage to be used for Component B of the allocation algorithm formula is the percentage that the size of each SQT, RSQT or non-SQT ROT's quote or limit order at the best price represents relative to the total number of contracts in the disseminated quote.

In the case of a trade allocation involving a Directed SQT or RSQT, contracts remaining after customer orders at the execution price are executed, and after the Directed SQT or RSQT is allocated their guaranteed number of contracts (the Remaining Order Size), would be allocated among the specialist, SQTs or RSQTs (excluding the Directed SQT or RSQT) quoting at the disseminated price, and non-SQT ROTs that have placed limit orders on the limit order book via electronic interface at the Exchange's disseminated price according to the following formula:

[12] *See* Phlx Rule 1014(b)(ii)(B).

[13] Phlx Rules 1014(g)(ii)–(iv) govern the Enhanced Specialist Participation, under which the specialist is entitled to receive a guaranteed number of contracts in situations where the specialist is on parity (*i.e.*, simultaneously bidding or offering at the same price) with one or more ''controlled accounts,'' defined in Phlx Rule 1014(g)(i)(A) to include any account controlled by or under common control with a broker-dealer. If three or more controlled accounts are on parity with the specialist, the specialist is entitled to receive 30% of the contracts to be allocated. If two controlled accounts are on parity with the specialist, the specialist is entitled to receive 40%, and if only one controlled account is on parity with the specialist, the specialist is entitled to receive 60%.

Another Enhanced Specialist Participation program on the Phlx, originally adopted in May 1994 and embodied in current Phlx Rule 1014(g)(iii), is designed to encourage the establishment of new specialist units to trade options classes that have never been listed on the Exchange. *See* Securities Exchange Act Release No. 34109 (May 25, 1994), 59 FR 28570 (June 2, 1994) (SR–PHLX–93–29). For a period of six months following the commencement of trading in such a new options class, the new specialist unit is entitled to 50% of an order when one controlled account is on parity with the specialist, and 40% when two or more controlled accounts are on parity with the specialist.

Under Phlx Rule 1014(g)(iv), a specialist who develops and trades a new product is entitled to receive an enhanced Special Participation of 40% when three or more controlled accounts are on parity , and 60% if fewer than three controlled accounts are on parity. Currently, in either of these situations, if a customer is on parity, the customer may not receive a smaller participation than any other crowd participant, including the specialist.

[14] *See* Securities Exchange Act Release No. 50788 (December 3, 2004), 69 FR 71860 (December 10, 2004) (SR–Phlx–2004–57).

Equal percentage based on the number of SQTs, RSQTs, specialist and Non-SQT ROTs quoting or with limit orders at BBO (Component A) + *Pro rata percentage based on size of SQT, RSQT, specialist and non-SQT quotes and limit orders (Component B)* × *Remaining Order Size*

The percentage to be used for Component A would be an equal percentage, derived by dividing 100 by the number of SQTs, RSQTs (other than the Directed SQT or RSQT), specialist and non-SQTs quoting or with limit orders at the BBO. The percentage to be used for Component B of the allocation algorithm formula is the percentage that the size of each SQT, RSQT (other than the Directed SQT or RSQT), specialist or non-SQT ROT's quote or limit order at the best price represents relative to the total number of contracts in the disseminated quote.

In each situation, the final weighting formula as among Component A and Component B would be determined by a three-member special committee of the Board of Governors, chaired by the Chairman of the Board, and including the Chairman of the Options Committee and one on-floor Governor, and shall be a weighted average of the percentages derived for Components A and B multiplied by the size of the incoming order.

Off-Floor Broker-Dealers. If any contracts remain to be allocated after the specialist, SQTs, RSQTs or non-SQT ROTs with limit orders on the limit order book have received their respective allocations, off-floor broker-dealer (as defined in Phlx Rule 1080(b)(i)(C)) that have placed limit orders on the limit order book at the disseminated price would be allocated contracts on a size pro rata basis.

Orders for a size greater than the Exchange's disseminated size. Proposed Phlx Rule 1014(g)(viii)(C) would establish that, if the Directed Order is for a size that is greater than the Exchange's disseminated size, remaining contracts would be allocated in accordance with Phlx Rule 1014(g)(v).[15]

Quotation and limit order size. Proposed Phlx Rule 1014(g)(viii)(D) would provide that a Directed Specialist, RSQT, or SQT would not be entitled to receive a number of contracts that is greater than the size associated with their quotation. Non-SQT ROTs and off-floor broker-dealers shall not be entitled to receive a number of contracts that is greater than the size associated with their limit order.

One-Year Pilot Basis. The proposal would be effective on a one-year pilot basis, beginning on the date of Commission approval of proposed Phlx Rules 1080(1) and 1014(g)(viii).[16]

The Exchange believes that the participation guarantees included in proposed Phlx Rule 1014(g)(viii) should reward specialist, SQTs and RSQTs that actively engage in marketing activities and establish relationships with OFPs that generate Directed Orders sent to the Exchange by such OFPs. The Exchange expects such marketing activities and relationships would result in additional order flow to the Exchange, thus adding depth and liquidity to the Exchange's markets, and enabling the Exchange to continue to compete effectively with other options exchanges for order flow.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[17] in general, and furthers the objectives of Section 6(b)(5) of the Act[18] in particular, in that it is designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest and promote just and equitable principles of trade, by permitting specialists, SQTs and RSQTs trading options on Phlx Xl participants to receive Directed Orders, and by encouraging the capture of order flow on the Exchange by rewarding Directed Order recipients with a participation guarantee in trades involving Directed 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 solicited or received with respect to 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 with 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 it reasons for so finding, or (ii) as to which the Phlx 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. 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-comment@sec.gov.* Please include File Number SR–Phlx–2004–91 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 rever to File Number SR–Phlx–2004–91. 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

[15] Phlx Rule 1014(g)(v) sets forth the rules and contract allocation algorithm for trades that are executed in the trading crowd.

[16] The Exchange notes that another options exchange has filed a proposed rule change to establish a ''preferred'' market maker order type, which would afford participation grantees to such ''preferred'' market maker, on a one-year pilot basis. *See* Securities Exchange Act Release No. 50732 (November 23, 2004), 69 FR 69967 (December 1, 2004) (SR–CBOE–2004–71).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

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 Reverence Section, 450 Fifth Street, NW., Washington, DC 20549. 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 publicly available. All submissions should refer to File Number SR–Phlx–2004–91 and should be submitted on or before January 12, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 04–27939 Filed 12–21–04; 8:45 am]

BILLING CODE 8010–01–M

[19] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4939]

HR/REE—Office of Recruitment, Examination, and Employment; 60-Day Notice of Proposed Information Collection: DS–3091, Thomas R. Pickering Foreign Affairs Fellowship Program, OMB # 1405–0143

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Thomas R. Pickering Foreign Affairs Fellowship Program.
- *OMB Control Number:* 1405–0143.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* HR/REE.
- *Form Number:* DS–3091.
- *Respondents:* University Graduate and Undergraduate Students.
- *Estimated Number of Respondents:* 500.
- *Estimated Number of Responses:* 500.
- *Average Hours Per Response:* 3.
- *Total Estimated Burden:* 1,500.
- *Frequency:* Annual.
- *Obligation to Respond:* Required to Obtain a Benefit.

DATES: The Department will accept comments from the public up to sixty days from December 2, 2004.

ADDRESSES: You may submit comments by the following methods:

- Email: *BetheaND@state.gov.*
- Mail: Department of State, 2401 E Street NW., SA–1 RmH518, Washington, DC 20522.
- Fax: 202–261–8841 Attn: Pickering Program.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests of the proposed information collection and supporting documents, to Norris Bethea, Department of State, 2401 E Street, NW, 5H, Washington, DC 20522, who may be reached on 202–647–8994.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department of State to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed 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.

Abstract: The Department of State collects this information to identify qualified candidates for the Thomas R. Pickering Foreign Affairs Program.

Methodology: Applications are accepted by mail.

Dated: October 20, 2004.

Ruben Torres,

Executive Director, Bureau of Human Resources, Department of State.

[FR Doc. 04–27989 Filed 12–21–04; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

[Public Notice 4940]

Finding of No Significant Impact and Summary Environmental Assessment—Tornillo-Guadalupe New International Bridge, County of El Paso, TX

The proposed action is to issue a Presidential Permit to the County of El Paso, Texas to construct, operate and maintain an international vehicular and pedestrian bridge (the proposed ''Tornillo-Guadalupe New International Bridge''), its approaches and facilities at the international boundary between the United States and Mexico, southeast of the city of El Paso, Texas, approximately 1,950 feet upstream on the Rio Grande from the existing Fabens-Caseta Bridge, near the small community of Caseta that is within the municipality of Guadalupe in the State of Chihuahua, Mexico.

I. Background

The U.S. Department of State (''the Department'') is charged with the issuance of Presidential Permits for the construction of international bridges between the United States and Mexico under the International Bridge Act of 1972, 86 Stat. 731, 33 U.S.C. Section 535 *et seq.,* and Executive Order 11423 of August 16, 1968, 33 FR 11741 (1968), as amended by Executive Order 12847 of May 17, 1993, 58 FR 29511 (1993), Executive Order 13284 of January 23, 2003, 68 FR 4075 (2003), and Executive Order 13337 of April 30, 2004, 69 FR 25299 (2004).

In 2001, Raba-Kistner Consultants, Inc. (RK) prepared, on behalf of the Presidential Permit applicant, the County of El Paso, Texas (the ''Sponsor''), a draft Environmental Assessment of the proposed Tornillo-Guadalupe New International Bridge, port of entry, and connecting roadway. This Environmental Assessment was submitted to the Department as part of the Sponsor's application for a Presidential Permit. The Department placed a notice in the **Federal Register** regarding the receipt of the Sponsor's application for a Presidential permit and seeking public comments regarding the application (68 FR 43567 (2003). No public comments were received in response to this notice.

The Department has acted as the lead federal agency in the preparation and completion of the Environmental Assessment and has worked to address concerns or other issues that have been raised by cooperating governmental agencies. The Department, consistent with Council on Environmental Quality (CEQ) and Department of State