

for Terra Nova is approved until December 31, 2005.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.<sup>121</sup>

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. E5-5314 Filed 9-28-05; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52495; File No. SR-Phlx-2005-14]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to Order Matching at the Opening in PACE

September 22, 2005.

#### I. Introduction

On March 10, 2005, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Phlx Rule 229 to permit the PACE System<sup>3</sup> to modify the opening process to match certain orders, described below, to each other, where possible, instead of matching such orders with the specialist. On July 28, 2005, the Phlx filed Amendment No. 1 to the proposed rule change.<sup>4</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on August 17, 2005.<sup>5</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

#### II. Description of the Proposal

Currently, eligible market and limit orders received before the opening of the listing market<sup>6</sup> are guaranteed an execution against the specialist to whom

the order was directed (the "Directed Specialist")<sup>7</sup> at the open price. The Exchange has proposed to modify the PACE System to match certain eligible orders received before the open against other eligible contra-side orders (as available) at the opening price, rather than execute such orders against the Directed Specialist.<sup>8</sup> The Directed Specialist would continue to provide executions for any orders that would be ineligible for the proposed matching feature (as described below) and also for any imbalance of directed orders resulting from the proposed matching feature. However, the proposal would have the effect of removing the Directed Specialist from interaction with orders received before the open when such orders would be eligible for matching against other orders. The proposal also modifies the conditions for an order to be guaranteed an automatic execution at the listing market's opening price (whether matched against another order or against the Directed Specialist).

#### Automatic Execution Guarantee

Under the proposal, in order to be guaranteed an automatic execution at the listing market's opening price, market orders that are of a size equal to or smaller than the Directed Specialist's automatic execution guarantee size would need to be entered anytime before the actual opening of the applicable listing market, but market orders that are larger than the Directed Specialist's automatic execution guarantee size would need to be entered at least two minutes before the actual opening of the listing market.<sup>9</sup> Limit orders would need to be entered at least two minutes prior to the actual opening on the listing market and to be traded-through by the listing market's opening price in order to receive the automatic execution guarantee. Neither market orders nor limit orders would be eligible for an automatic execution guarantee at the listing market's opening price if they are marked sell short or laid-off by the Directed Specialist.

<sup>7</sup> The term "Directed Specialist" has the same meaning as in Phlx Rule 229A(b)(3), when there is more than one specialist assigned in a security. When there is only one specialist assigned in a security, the term Directed Specialist means that sole specialist.

<sup>8</sup> Under the proposal, the Exchange's matching algorithm would sort eligible orders by time priority and descending volume, thereby minimizing the number of different orders that any one order could match against.

<sup>9</sup> Under the proposal, a Directed Specialist could elect to adopt a shorter time threshold for the receipt of orders in all securities traded by the Directed Specialist.

#### Orders Types Eligible for Matching

Under the proposal, only round-lot market and limit orders would be eligible for matching at the opening price of the listing market. Other order types would not be eligible for the matching feature and would continue to be executed against the Directed Specialist, including: odd-lot orders, partial round-lot all-or-none orders, the odd-lot portion of partial round-lot eligible orders, and round-lot all-or-none orders when a single contra-side order with sufficient volume is not available. In addition, the imbalance of any directed orders that, although eligible for matching, could not match against other orders due to the lack of available contra-orders would be executed against the Directed Specialist.

#### Other Changes

Finally, the proposal would delete existing language in Phlx Rule 229, Supplementary Material .10(b), relating to the size of market and limit orders and the receipt time required to receive the opening price, since the treatment of such orders will be covered in Supplementary Materials .06 and .10(a), and it would also delete Supplementary Material .11 relating to the refusal of orders, as the Phlx believes that specialists today have sufficient methods available to them to manage the risk associated with orders received before the opening.

#### III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>10</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,<sup>11</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the proposal would remove all size restrictions on orders guaranteed an automatic execution at the opening price, provided that such orders are received within a certain time before the opening of the listing market and are not marked sell short or laid off at another

<sup>10</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>121</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> PACE is the Exchange's automated order routing, delivery, execution and reporting system for equities. See Phlx Rule 229.

<sup>4</sup> Amendment No. 1, which replaced and superseded the original filing in its entirety, included additional text in the purpose section to further clarify the description and operation of the proposed rule change, and also included a minor edit to the text of Phlx Rule 229.

<sup>5</sup> See Securities Exchange Act Release No. 52239 (August 11, 2005), 70 FR 48457 ("Notice").

<sup>6</sup> The term "listing market" refers to the applicable New York listing market.

market. The Commission further notes that eligible, round-lot market and limit orders would be eligible to be automatically matched against other eligible orders at the opening price, without the participation of the Directed Specialist. The Commission believes that the proposal, by providing the proposed matching feature for eligible customer orders, appears to be reasonably designed to increase the automated handling of customer orders at the opening and reduce the risk of specialists trading ahead of customer orders. The Commission notes that the Exchange has represented that the proposal excludes order types involving odd-lots (odd-lot orders, partial round-lot all-or-none orders, and the odd-lot portion of partial round-lot eligible orders) from the proposed matching feature because such orders could otherwise match against round-lot orders, thereby generating a succession of additional odd-lots and transaction receipts, which would impose an undue transaction cost burden on firms entering round-lot orders. The Commission also notes that the Exchange has represented that all-or-none orders are not eligible for the proposed matching feature when a single contra-side order with sufficient volume is not available in order that, in keeping with the terms of all-or-none orders, such orders may be filled through a single execution. The Commission notes that the Directed Specialist would be obligated to execute all orders that are eligible for an automatic execution guarantee but that are ineligible for the proposed matching feature. The Commission also notes that the Directed Specialist is responsible for providing executions for any imbalance of orders that result from the matching feature. The Commission believes that the proposal appears to be reasonably designed to ensure the execution of orders entitled to an automatic execution guarantee, address the concerns of the Exchange's customers, and promote efficient executions.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-Phlx-2005-14), as amended, be, and it hereby is, approved.

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

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 05-19496 Filed 9-28-05; 8:45 am]

**BILLING CODE 8010-01-P**

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#### SMALL BUSINESS ADMINISTRATION

##### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intention to request approval on a new and/or currently approved information collection.

**DATES:** Submit comments on or before November 28, 2005.

**ADDRESSES:** Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Carmen-Rosa Torres, Director, Office of Analysis, Planning, and Accountability, Small Business Administration, 409 3rd Street SW., Suite 6000, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Carmen-Rosa Torres, Director, 202-205-6112 [Carmenrosa.torres@sba.gov](mailto:Carmenrosa.torres@sba.gov) Curtis B. Rich, Management Analyst, 202-205-7030 [curtis.rich@sba.sba](mailto:curtis.rich@sba.sba).

**SUPPLEMENTARY INFORMATION:**

*Title:* "Lender Survey".

*Description of Respondents:* This survey will be administered to representatives of lenders that originate small business loans.

*Form No:* N/A.

*Annual Responses:* 75.

*Annual Burden:* 37.5.

*Title:* "Assisted Business Survey".

*Description of Respondents:* This survey will be administered to a random sample of businesses assisted under various SBA programs.

*Form No:* N/A.

*Annual Responses:* 3,000.

*Annual Burden:* 1,000.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 05-19513 Filed 9-28-05; 8:45 am]

**BILLING CODE 8025-01-P**

#### SMALL BUSINESS ADMINISTRATION

##### CommunityExpress Pilot Program

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Notice of Pilot Program extension.

**SUMMARY:** This notice announces the extension of SBA's CommunityExpress Pilot Program until November 30, 2005. This extension will allow time for SBA to complete its decisionmaking regarding potential modifications and enhancements to the Program.

**DATES:** The CommunityExpress Pilot Program is extended under this notice until November 30, 2005.

**FOR FURTHER INFORMATION CONTACT:** Charles Thomas, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street, Washington, DC 20416; Telephone (202) 205-6490; [charles.thomas@sba.gov](mailto:charles.thomas@sba.gov).

**SUPPLEMENTARY INFORMATION:** The CommunityExpress Pilot Program was established in 1999 as a subprogram of the Agency's SBAExpress Pilot Program. Lenders approved for participation in CommunityExpress are authorized to use the expedited loan processing procedures in place for the SBAExpress Pilot Program, but the loans approved under this Program must be to distressed or underserved markets. To encourage lenders to make these loans, SBA provides its standard 75-85 percent guaranty, which contrasts to the 50 percent guaranty the Agency provides under SBAExpress. However, under CommunityExpress, participating lenders must arrange and, when necessary, pay for appropriate technical assistance for any borrowers under the program. Maximum loan amounts under this Program are limited to \$250,000.

The extension of this Program until November 30, 2005, will allow SBA to more fully evaluate the results and impact of the Program and to consider possible changes and enhancements to the Program. It will also allow SBA to further consult with its lending partners and the small business community about the Program.

(Authority: 13 CFR 120.3)

**Michael W. Hager,**

*Associate Deputy Administrator.*

[FR Doc. 05-19442 Filed 9-28-05; 8:45 am]

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#### SMALL BUSINESS ADMINISTRATION

##### Export Express Pilot Program

**AGENCY:** U.S. Small Business Administration (SBA).

<sup>12</sup> 15 U.S.C. 78s(b)(2).

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