

Under the proposed amendments to NYSE Rule 98A, approved persons would no longer be required to agree in writing not to cause a specialist or odd-lot dealer to violate rules applicable to the specialist or odd-lot dealer. Approved persons also would no longer be required to report any off-Floor orders for securities in which an associated specialist member organization specializes for any account in which the approved person has a direct or indirect interest to the Exchange. The Commission believes that the elimination of these requirements is consistent with the Act because, under proposed NYSE Rule 98, the specialist unit would be walled-off from approved persons.

#### 2. Proposed Amendments to NYSE Rules 99, 102, 103B, 104, and 113

NYSE Rules 99, 103B, 104, and 113 currently specifically apply to approved persons, unless such approved person has obtained an exemption under Rule 98. Under the proposed rule change, current NYSE Rules 99, 103B, 104, and 113 would be amended to remove references to approved persons.<sup>74</sup> The Commission believes that the elimination of the references to approved persons in these rules is consistent with the Act because, under proposed NYSE Rule 98, the specialist unit would be walled-off from approved persons.

NYSE Rule 102 currently governs trading in related products by an odd-lot dealer. The Commission believes that the deletion of current NYSE Rule 102 is consistent with the Act. The Commission notes that the Exchange no longer has separate odd-lot dealers and all specialists are also responsible for odd-lot trading in securities in which they are registered. The Commission also notes that specialists would be subject to the standards set forth in proposed Rules NYSE 98 and 105.

#### 3. Proposed Amendments to NYSE Rule 460

Current NYSE Rule 460.10 prohibits a specialist, its member organization or approved person (or officer or employee thereof) from, individually or in the aggregate, owning more than 10% of the outstanding shares of any equity security in which the specialist is

registered.<sup>75</sup> Current NYSE Rule 460.10 also requires such person to report to the NYSE when it, directly or indirectly, acquires more than 5% of the outstanding shares of such equity security and promptly dispose or reduce such interest if advised to do so by the Exchange. A specialist, its member organization or approved person (or officer or employee thereof) may exceed the 10% ownership threshold for derivative securities whose values are based on an underlying currency or index only with the approval of the NYSE; however, in no event may such person directly or indirectly own more than 25% of such derivative securities.

The proposed amendments to NYSE Rule 460 would make changes so that it would apply only to the specialist member and his specialist unit and not to his member organization or approved persons. In addition, the proposed amendments would replace the 10% ownership limitation set forth in NYSE Rule 460.10 with a requirement that the specialist unit report to the Exchange the beneficial ownership of more than 5% of an equity security that is allocated to it. The specialist unit would be required to update such reports if its beneficial ownership exceeds 10% or falls below 5%. In addition, the specialist unit would be prohibited from acquiring, directly or indirectly, more than 25% of the outstanding shares in any security allocated to the specialist unit.<sup>76</sup> The proposed amendments to NYSE Rule 460 would apply to specialist units operating under proposed NYSE Rule 98, as well as to specialist member organizations that continue to operate under NYSE Rule 98 (Former).

The Commission believes that the proposed changes to NYSE Rule 460.10 are consistent with the Act. Consistent with the NYSE's proposed changes to Rule 98, the changes to Rule 460 would apply the restrictions in the rule only to the specialist. The Commission believes that, because of the policies and procedures a specialist unit or any integrated proprietary aggregation unit in which it is a part would be required to implement, these changes to Rule 460 are consistent with the Act. Further, the Commission believes that, because of the increased competition among markets in NYSE listed securities, the elimination of the restrictions in Rule 460.10 are consistent with the Act.

<sup>74</sup> For the period of time that the current NYSE Rule 98 stays in the NYSE Rules as "NYSE Rule 98 (Former)," each of NYSE Rules 99, 103B, 104, and 113 will have two forms: One to meet the requirements of NYSE Rule 98 (Former) and one to meet the requirements of proposed NYSE Rule 98. The version of the rules that relate to NYSE Rule 98 (Former) will be similarly designated with the "(Former)" title either for the entire rule, or for a section of a rule, as appropriate.

<sup>75</sup> The prohibitions in current NYSE Rule 460.10 do not apply if the security is a convertible security, American Depositary Receipt, Global Depositary Receipt or exchange-traded funds tied to the equity securities, current or index warrants.

<sup>76</sup> See Amendment No. 1, *supra* note 4.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSE-2008-45), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>77</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58340; File No. SR-Phlx-2007-33]

#### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to Margining

August 11, 2008.

On April 5, 2007, 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" or "Exchange Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, a proposed rule change to amend its margin rules. On July 31, 2007, Phlx filed Amendment No. 1 to the proposed rule change. On May 19, 2008, Phlx filed Amendment No. 2 to the proposed rule change.<sup>3</sup> The proposal was published in the **Federal Register** on July 7, 2008.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

The Exchange proposed to streamline and make more efficient its margin rules and procedures by: (1) Adding a new section to Rule 721 (Proper and Adequate Margin) requiring each member to indicate in writing to the Exchange that such member shall be bound by the initial and maintenance margin requirements of either the Chicago Board Options Exchange ("CBOE") or New York Stock Exchange ("NYSE"); and (2) eliminating Rules 724 (Guaranteed Accounts) and 725 (Daily

<sup>77</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> Amendment No. 2 replaced and superseded the original filing and Amendment No. 1 in their entirety.

<sup>4</sup> Exchange Act Release No. 58045 (June 26, 2008), 73 FR 38487.

Record of Required Margin). The Exchange also proposes to significantly shorten Rules 723 (Day Trading and Prohibition on Free-Riding in Cash Accounts) and 722 (Margin Accounts) to eliminate redundant language while retaining those margin requirements that are unique to current Exchange margin rules. At the same time, the Exchange proposes to retain those margin provisions that are unique to current Exchange margin rules, particularly those pertaining to foreign currency options, which only trade on Phlx.

After careful review of the proposal, 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.<sup>5</sup> In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires, among other things that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and 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 believes that this proposed rule change will streamline the Exchange's margin rules commensurate with industry practice. The Commission notes that the proposed rule change will require Phlx member organizations to elect, via written notice to the Exchange, to use and follow the margin rules of either CBOE or NYSE as they are in effect from time to time. The Commission also notes that this proposal to incorporate CBOE or NYSE margin rules is similar to the approach used by the International Securities Exchange and the Boston Options Exchange requiring their members to elect and follow CBOE or NYSE margin rules and incorporating such rules by reference into their own rules.<sup>7</sup>

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> See Exchange Act Release Nos. 48355 (August 22, 2003), 68 FR 50813 (August 22, 2003) (SR-BSE-2002-15); and 49260 (February 14, 2004), 69 FR 8500 (February 24, 2004) (approval, among other things, of ISE rule incorporating CBOE and NYSE margin rules). The Exchange has, under separate cover, submitted a letter seeking an exemption under Section 36 of the Act from the rule filing procedures of Section 19(b) of the Act with respect to changes to the incorporated CBOE and NYSE margin rules going forward.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-Phlx-2007-33), as modified by Amendment Nos. 1 and 2, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-19029 Filed 8-18-08; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Application of Air Greco, Inc. D/B/A Wings Air for Commuter Authority

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Order to Show Cause (Order 2008-8-9), Docket DOT-OST-2008-0154.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Air Greco, Inc. d/b/a Wings Air fit, willing, and able, and awarding it Commuter Air Carrier Authorization.

**DATES:** Persons wishing to file objections should do so no later than August 21, 2008.

**ADDRESSES:** Objections and answers to objections should be filed in Docket DOT-OST-2008-0154 and addressed to U.S. Department of Transportation, Docket Operations, (M-30, Room W12-140), 1200 New Jersey Avenue, SE., West Building Ground Floor, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Rick Pittaway, Air Carrier Fitness Division (X-56, Room W86-467), U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366-9721.

Dated: August 12, 2008.

**Michael W. Reynolds,**

*Acting Assistant Secretary for Aviation and International Affairs.*

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<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-99-6480; FMCSA-99-5578; FMCSA-99-5748; FMCSA-01-11426; FMCSA-02-12294; FMCSA-04-17195; FMCSA-05-22194; FMCSA-06-24783]

#### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 16 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective September 9, 2008. Comments must be received on or before September 17, 2008.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-99-6480; FMCSA-99-5578; FMCSA-99-5748; FMCSA-01-11426; FMCSA-02-12294; FMCSA-04-17195; FMCSA-05-22194; FMCSA-06-24783, using any of the following methods.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.