encourage trades on other exchanges.'' [25]

Finally, in support of its position, the PCX included the following quote from the Commission's order approving the ISE's payment for order flow proposal:

Payment for order flow assumes many different forms and guises—as numerous as the many different kinds of incentives granted to order flow providers to induce them to send their business to them. Without more, this form of payment or incentive—however objectionable to some—cannot be said to be in itself inconsistent with the Act while other forms are accepted as consistent with the Act. In this context, the ISE proposal cannot be said to constitute an undue burden on competition.[26]

In the light of all of the foregoing, the PCX believes that is proposal is consistent with the Act, the rules thereunder, and the Commission's order approving the ISE's payment for order flow plan.[27]

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

Because the PCX has designated the foregoing as a fee change pursuant to Section 19(b)(3)(A) of the Act [28] and Rule 19b–4(f)(2) thereunder,[29] the proposal has become effective immediately upon filing with the Commission. At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the 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. 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2001–37 and should be submitted by October 19, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Margaret H. McFarland,

Deputy Secretary.

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[25] ISE Release, *supra*.

[26] *Id.* (footnotes omitted).

[27] *Id.*

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44829; File No. SR–Phlx–2001–30]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Alternative Wheel Allocation Model

September 21, 2001.

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 March 6, 2001, 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 Exchange. The Phlx submitted Amendment No. 1 on May 21, 2001.[3] 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, on a six-month pilot basis, to amend Exchange Options Floor Procedure Advice (''OFPA'') F–24, AUTO–X Contra-Party Participation, to allow specialists, on an issue-by-issue basis, to elect to implement a new order assignment model for contra-side participation in orders delivered via AUTOM and automatically executed via AUTO–X.[4] The proposed order assignment model set forth in new proposed Section (e)(ii) of OFPA F–24 is called the Alternative Wheel Allocation Model (''Model'').

The proposed new rule text is as follows. Proposed new language is in italics.

F–24 AUTO–X Contra-Party Participation (The Wheel)

(a) No change.

(b) No change.

(c) No change.

(d) No change.

(e)*(i)* Wheel Rotation/Assigning Contracts—AUTO–X participation shall be assigned to Wheel Participants on a rotating basis, beginning at a random place on the rotational Wheel each day, from those participants signed-on in that listed option at that time. At a minimum, the Wheel shall rotate and assign contracts depending upon the size of the AUTO-X guarantee, as follows.

1–10 contracts
every 2 contracts;
11–25 contracts
every 5 contracts;
26 and more
every 10 contracts

The Options Committee, or its designees, may approve a Wheel rotation in a size larger than the minimum stated above, if requested by the specialist and Wheel participants. However, the Wheel may not rotate in a size larger than ten contracts.

Each remaining portion shall be successively assigned to individual Wheel Participants on that same basis.

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

[2] 17 CFR 240.19b–4.

[3] Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated May 17, 2001 (''Amendment No. 1''). In Amendment No. 1 the Phlx amended the proposed rule change by deleting rule language which would have set forth a minimum participation percentage of 30% for specialists and a maximum participation percentage of 60% for any single Wheel participant. In addition, in Amendment No. 1 the Phlx further amended its proposal to specify that the ''Review Period,'' during which the specialist and crowd participants may earn Participation Units, will last a maximum of 14 calendar days. Finally, the Phlx corrected several minor typographical errors contained in the original filing. The substance of Amendment No. 1 is incorporated into the description of the proposed rule change in Section II.A., below.

[4] AUTOM is the Exchange's electronic order delivery 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; alternatively, 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.

The specialist shall receive the first execution of the day; thereafter, if four or less ROTs are participating on the Wheel, the specialist shall participate in a normal rotation. However,if an average of five to 15 ROTs have signed-on the Wheel, the specialist shall receive every fifth execution; if an average of 16 or more ROTs have signed-on the Wheel, the specialist shall receive every tenth execution, unless Wheel participation falls below ten participants at any time, then the specialist shall automatically participate in a normal rotation.

Exception to the normal rotation: With the unanimous consent of Wheel participants in an option and approval of the Options Committee Chairman or his designee, the specialist shall receive an enhanced participation substantially equivalent to twice the number of contracts as other crowd participants where the Enhanced Specialist Participation of Rule 1014(g)(ii) applies.

The provisions of this clause (e)(i) will not apply under circumstances where clause (e)(ii) applies.

(ii) Alternative Wheel Allocation Model. The Alternative Wheel Allocation Model (the ''Model'') is a method for allocating Wheel participation with respect to certain Eligible Options (as defined below). In general, the Model allocates contracts that comprise AUTO–X during a ''Trading Period'' (as defined below) by taking into account the participation of Wheel Participants in non-Wheel contracts and trade effected during a ''Review Period'' (as defined below) that immediately precedes the Trading Period. The Model allocates contracts for a given Trading Period based on the number of ''Participation Units'' (as defined below) earned by the Wheel Participant during the immediately preceding Review Period.

Participation Units will be awarded to a Wheel Participant based on a weighted ''Ratio'' (as defined below) of the sum of such Wheel Participant's in-person, non-Wheel agency contracts traded and the number of such Wheel Participant's in–person, non-Wheel agency trades executed during the Review Period, divided by the sum of all in-person, non-Wheel agency contracts traded and all in-person, non-Wheel trades executed during the Review Period in the Eligible Option.

The purpose of the Model is to reward liquidity providers by assigning contracts with respect to Auto-X orders in Eligible Options executed during a given Trading Period to each Wheel Participant in a manner that will approximate the product of the Ratio (as defined below) and the number of contracts eligible for allocation on the Wheel.

With respect to any Trading Period, the Ratio for a Wheel Participant with respect to an Eligible Option shall be equal to the sum (expressed as a percentage, rounded to the nearest 1 percent) of A and B, where:

A = 80% of (a) the number of Eligible Contracts effected by the Wheel Participants in the Eligible Option during the previous Review Period, divided by (b) the number of all Eligible Contracts effected by all Wheel Participants in the Eligible Option during the previous Review Period.

And

B = 20% of (a) the number of non-Wheel agency trades effected by the Participant in the Eligible Option during the previous Review Period, divided by (b) the number of all non-Wheel trades effected by all Wheel Participants in the Eligible Option during the previous Review Period.

Once a Wheel Participant has signed onto the Wheel, he will be assigned contracts on the Wheel until his awarded number of Participant Units has been met. This may mean that multiple orders (or an order and a part of this succeeding order) will be assigned to the same Wheel Participant. To understand how the AUTO–X orders will actually be allocated to Wheel Participants to meet those percentages, one must understand the concepts of ''Participants Units'' and ''Wedges.'' A Participants Unit is 1% of the Wheel and often may be equal to one contract. The Options Committee may determine the number of contracts that make up one Participants Unit. Each Wheel Participant for that option class, regardless of whether such Wheel Participant executed any agency trades in Eligible Contracts during the immediately prior Review Period, is entitled to be assigned at least one Participation Unit on every revolution of the Wheel. For example, if a Participation Unit equals one contract then there will be 100 AUTO–X contracts that will be assigned to Wheel Participants on every revolution of the Wheel. If a Participation Unit is defined as five contracts then there will be 500 AUTO–X contracts assigned to the Wheel Participants before the Wheel completes one revolution. Generally, the Wheel will consist of the number of Participation Units replicating the cumulative percentage of all Wheel Participants signed onto the system who have been awarded Participation Units based on agency trades in Eligible Contracts during the immediately prior Review Period, plus one Participation Unit for each market-maker that has not been awarded a specific number of Participation Units.

A ''Wedge'' is a maximum number of Participation Units that a Wheel Participant may be consecutively assigned at any one time on the Wheel. The purpose of the Wedge is to break up the distribution of contracts into smaller groupings to reduce the exposure of any one Wheel Participation to market risk. If the size of the Wedge is smaller than the number of Participation Units to which a particular Wheel Participation is entitled, then that Wheel Participation would receive one or more additional assignments during one revolution of the Wheel.

The decision to participation in the Model pilot (as opposed to the Wheel allocation set forth in Section (e)(i) of this Advice) shall be made by the specialist on an issue-by-issue basis. However, once the specialist determines to participate in the Model pilot, such participation shall be effective until the end of the review period as set forth in Section (f) of this Advice, unless the Options Committee determines to permit the specialist, on an issue-by-issue, to opt out the pilot program.

Definitions: As used in this clause (e)(ii), the following terms have the meanings set forth below:

''Eligible Contracts'' means contracts comprising all in-person, non-Wheel agency trades in an Eligible Option effected during a given Review Period, provided that, except as otherwise determined by the Options Committee, in the event that the percentage that any individual non-Wheel agency trade effected by a Wheel Participation would exceed in size 5% of the total non-Wheel agency contracts effected during that Review Period (the ''Period Total''), then the number of Eligible Contracts attributable to such trade shall be counted, for purposes of calculating the Ratio, as the number of contracts equal to 5% of the Period Total.

''Eligible Options'' means those multiply listed equity options designated for inclusion in the Model by the specialist on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee will notify the membership of each class of options that is subject to the Model.

A ''Participation Unit'' is 1% of the Wheel and often may be equal to one contract. The Options Committee may determine the number of contracts that make up one Participation Unit.

''Period Total'' means the number of all Eligible Contracts effected by all Wheel Participants in the Eligible Option during the Relevant Review Period.

''Review Period'' means a period (not to exceed 14 calendar days) determined by the Options Committee that commences on the trading day following the final day of the proceeding Review Period. The Ratio for a Wheel Participation for an Eligible Option for each Trading Period will be based upon the non-Wheel (in-crown) trading activity in the Eligible Option during the Review Period that ends immediately prior to the beginning of the Trading Period.

''Trading Period'' means a period (not to exceed 14 calendar days) determined by the Options Committee that commences on the trading day following the final day of the preceding Trading Period.

A ''Wedge'' is the maximum number of Participation Units that a Wheel Participant may be consecutively assigned at any time on the Wheel. Because the size of the Wedge may be smaller than the number of contracts to which a particular Wheel Participant is entitled during one revolution of the Wheel, that Wheel Participant will receive more than one turn during one revolution of the Wheel. The Wedge size will be variable, at the discretion of the Options Committee and may be different for different option classes or the same for all option classes.

''Wheel Participant''—for the purpose of determining the Ratio and number of Participation Units awarded for a given Trading Period, a Wheel Participant is deemed to be a firm, regardless of which individual member of that firm has been designated to trade in a particular crowd during a particular trading day. In situations where such a firm has more than one crowd participant at one time, the Ratio and number of Participation Units would be calculated as through all such crowd participants that are members of the same firm are trading as the beneficial owner of one single account.

(f) The provisions of section (e) above will be reviewed and evaluated by the Options Committee as needed, but not less frequently than on a six month basis, to determine the effectiveness of the program to achieve its stated purpose as well as to resolve specific issues, including, without limitation, continued eligibility of an option on an issue-by-issue basis.

Fine Schedule

F–24 Fine not applicable, except paragraph (c). Matters subject to review by the Business Conduct Committee.

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 Exchange 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 Exchange 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 institute a new method for assigning contra-side participation in orders delivered through AUTOM and automatically executed on AUTO–X via the Exchange's ''Wheel.'' [5]

Currently, OFPA F–24 sets forth the method of allocation of trades executed via AUTO–X among specialists and ROTS [6] signed on to the Wheel in a particular option (''Wheel Participants''). Under the current rule, AUTO–X participation is assigned to Wheel Participants on a rotating basis, beginning at a random place on the Wheel each day. The Wheel signs contracts depending upon the size of the AUTO–X guarantee, based on (1) the number of contracts to be assigned, and (2) the number of Wheel Participants signed on the Wheel for a given option.

The current method of assignment does not take into account, or reward, the overall level of liquidity in respect of non-Wheel agency contracts and trades provided by a Wheel Participant in a given option. The Model is intended, primarily, to enhance incentives for Wheel Participants to quote competitively [7] and to reward such Wheel Participants by assigning contracts with respect to AUTO–X orders based on the number of in-person, non-Wheel agency contracts and trades (on a weighted basis as set forth in detail below) effected by such Wheel Participant during a given Review Period (as defined below).[8] The Exchange believes that the Model will encourage Phlx specialists and ROTs in Eligible Options (as defined below) to quote more aggressively because the potential rewards therefore will be increased.

The Exchange notes that because this proposal is primarily descriptive in nature, the Fine Schedule applicable to OFPA F–24 will remain limited to member violations of the sign-on requirements of Section (c). To the extent a member may violate any other provision of OFPA F–24, such matters are subject to review by the Business Conduct Committee.[9]

(a) *Definitions.* For purposes of this proposed rule, the following definitions apply:

- ''Eligible Contracts'' means contracts comprising all in-person, non-Wheel agency trades in an Eligible Option effected during a given Review Period, provided that, except as otherwise determined by the Options Committee, in the event that the percentage that any individual non-Wheel agency trade effected by a Wheel Participant would exceed in size 5% of the total non-Wheel agency contracts effected during that Review Period (the ''Period Total''), then the number of Eligible Contracts attributable to such trade shall be counted, for purposes of calculating the Ratio, as the number of

[5] The ''Wheel'' is a feature of AUTOM that provides an automated mechanism for assigning specialists and Registered Options Traders (''ROTs'') signed on the Wheel for a given listed option, on a rotating basis, as contra-side participants to trades executed via AUTO–X. *See* Exchange Rule 1080(g).

[6] A ROT is a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Exchange Rule 1014(b).

[7] The Exchange notes that the Commission has directed that the options markets adopt new, or amend existing, rules concerning its automated quotation and execution systems which substantially enhance incentives to quote competitively and reduce disincentives for market participants to act competitively. *See* Section IV .B.h.(i), *Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions,* Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3–10282 (the ''Order'').

[8] The Exchange represents that this is not intended to be interpreted to imply that the current Wheel model fails to encourage competition among Wheel Participants. The Exchange states that, under the current system, if a ROT wishes to participate in more Wheel contracts, he or she may place an order on the limit order book that improves the Phlx market. This causes the Wheel to stop, and incoming executable AUTOM orders that would otherwise be allocated on the Wheel would be executed manually against the booked order until it is exhausted (*see* Exchange Rule 1080(c)). The Exchange represents that this feature, which creates strong incentives for price improvement, would be retained under the proposed Model.

[9] Telephone conversation between Richard S. Rudolph, Counsel, Phlx, and Geoffrey Pemble, Attorney, Division of Market Regulation, Commission (June 26, 2001).

contracts equal to 5% of the Period Total.[10]

- ''Eligible Options'' means those multiply listed equity options designated for inclusion in the Model by the specialist on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee will notify the membership of each class of options that is subject to the Model.
- A ''Participation Unit'' is 1% of the Wheel and often may be equal to one contract. The Options Committee may determine the number of contracts that make up one Participation Unit.
- ''Period Total'' means the number of all Eligible Contracts effected by all Wheel Participants in the Eligible Option during the relevant Review Period.
- The ''Ratio'' for a Wheel Participant with respect to an Eligible Option means the sum (expressed as a percentage, rounded to the nearest 1 percent) of A and B, where:

A=80% of (a) the number of Eligible Contracts effected by the Wheel Participant in the Eligible Option during the previous Review Period, divided by (b) the number of all Eligible Contracts effected by all Wheel Participants in the Eligible Option during the previous Review Period;

and

B=20% of (a) the number of non-Wheel agency trades effected by the Participant in the Eligible Option during the previous Review Period, divided by (b) the number of all non-Wheel trades effected by all Wheel Participants in the Eligible Option during the previous Review Record.

- ''Review Period'' means a period (not to exceed 14 calendar days calculated on a rolling basis) determined by the Options Committee, that commences on the trading day following the final day of the preceding Review Period.[11] The Ratio for a Wheel Participant for an Eligible Option for each Trading Period will be based upon the non-Wheel, in-person trading activity in the Eligible Option during the Review Period that ends immediately prior to the beginning of the Trading Period.
- ''Trading Period'' means a period (not to exceed 14 calendar days) determined by the Options Committee that commences on the trading day following the final day of the preceding Trading Period.
- A ''Wedge'' is the maximum number of Participation Units that a Wheel Participant may be consecutively assigned at any one time on the Wheel. Because the size of the Wedge may be smaller than the number of contracts to which a particular Wheel Participant is entitled during one revolution of the Wheel, that Wheel Participant will receive more than one turn during one revolution of the Wheel. The Wedge size will be variable, at the discretion of the Options Committee and may be different for different option classes or the same for all option classes.[12]
- Solely for the purpose of determining the Ratio and number of Participation Units awarded for a given Trading Period, the term ''Wheel Participant'' shall be deemed to include a firm, regardless of which individual member of that firm has been designated to trade in a particular crowd during a particular trading day. In situations where such a firm has more than one crowd participant at one time, the Ratio and number of Participation Units would be calculated as though as such crowd participants that are members of the same firm are trading as the beneficial owner of one single account.[13]

(b) *The Model.* Under the Model, AUTO–X orders in Eligible Options would be assigned to signed-on Wheel Participants according to the percentage of a weighted sum of their in-person, non-Wheel agency contracts and trades in a given option, compared to a weighted sum of all in-person, non-Wheel agency contracts and trades in such an option during the Review Period. Under the Model, on each revolution of the Wheel, each Wheel Participant that is signed-on to the Wheel at the time would be assigned enough contracts so that the percentage of Wheel contracts allocated to such Wheel participant on that revolution of the Wheel will approximate the weighted percentage of agency contracts and trades that he or she executed in-person in that option during the Review Period (except those contracts excluded by the ''5% cap'' set forth in the definition of Eligible Contracts). The Options Committee would determine the duration of the Review Period, which will be calculated on a ''rolling basis'' and will in no event exceed the previous 14 calendar days.[14]

(i) *Participation Units.* During the Trading Period, a Wheel Participant would be assigned contracts on the Wheel for trades executed via AUTO–X based on the number of Participation Units such Wheel Participant attained during the immediately preceding Review Period. The number of Participation Units awarded will be calculated for each Wheel Participant for each option the wheel Participant trades. A new Wheel participant (who did not participate in the immediately previous Review Period) would be entitled to one Participation Unit.

(ii) *Formula Determining Participation Units.* Participation Units (for Wheel Participant ''A'' in this Example) during the preceding Review Period (''trades'' refers to trades in the given Eligible Option) are determined as follows:

[10] The purpose of this ''5% cap'' is to avoid the circumstance in which a Wheel Participant could obtain an unfair advantage over other regular Wheel Participants as a result of a single trade during the Review Period for an extraordinarily large size. In effect, the ''cap'' limits the extent to which very large trades would count as Eligible Contracts to be included in the Period Total.

[11] The Exchange represents that the review period will be set at 14 calendar days for all options classes and that the Options Committee will not vary the term of the review period except in the case of exigent circumstances. Telephone conversation between Richard S. Rudolph, Counsel, Phlx and Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission (September 21, 2001).

[12] The purpose of the Wedge is to break up the distribution of contracts into smaller groupings to reduce the exposure of any one Wheel Participant to market risk by limiting the number of contracts that would be consecutively assigned to a given Wheel Participant.

[13] The purpose of this provision is to avoid unduly penalizing a Wheel Participant if an individual associated with such Wheel Participant is absent from the trading crowd during the Review Period, and thus unable to participate in in-person, non-Wheel, agency trades. A firm could substitute a different, qualified individual for the absent individual, and not be penalized for such absence.

[14] The ''rolling basis'' means that the Review Period will be for a duration not to exceed the most recent 14 calendar days. The Options Committee may shorten the Review Period, but in no event shall it exceed 14 calendar days. The purpose of the ''rolling'' 14-day Review Period is to avoid unduly penalizing a Wheel Participant that cannot participate in in-person, non-Wheel agency trades due to absence during the Review Period. The reason for limiting the Review Period to a maximum of 14 calendar days (the Options Committee may determine to shorten the Review Period) is to ensure that the Model does not operate to prevent Wheel Participants from increasing their attained number of Participation Units by entrenching other Wheel Participants who initially have a large number of in-person, non-Wheel agency contracts and trades. A long Review Period could have the effect of ''freezing'' the status quo, thus effectively preventing, or at least delaying, Wheel Participants from increasing their number of Participation Units.

$$(.8)\times\frac{(\#\text{ of Eligible Contracts executed by Wheel Participant "A"})}{(\#\text{ of Eligible Contracts executed by all Wheel Participants})}$$

$$+(.2)\times\frac{(\#\text{ of trades executed by Wheel Participant "A"})}{(\#\text{ of trades executed by all Wheel Participants})}$$

$$=\text{ Number of Participation Units Attained by Wheel Participant "A"}$$

As stated above, the calculation of the number of Participation Units to be attained by a Wheel Participant is based on a weighted Ratio of (a) the number of Eligible Contracts and trades effected by the Wheel Participant in an Eligible Option during the previous Review Period, divided by (b) the number of all Eligible Contracts and trades effected by all Wheel Participants in the Eligible Option during the previous Review Period. The number of Eligible Contracts executed during the Review Period would be weighted as 80% of the Ratio, and the number of trades effected during the Review Period would be weighted as 20% of the Ratio.

The number of Participation Units to be attained by a Wheel Participant in a given option would be calculated as follows for a given Review Period.

Example—How Participation Units Are Calculated

In this example, assume three Wheel Participants attained Participation Units during the Review Period, and that no single trade accounted for greater than 5% of the Period Total.

Wheel Participant	Review Period	% of Participation Units in Following Trading Period
A	5000 Eligible Contracts 40 Agency, non-Wheel Trades	$.8\ \frac{5{,}000}{(10{,}000)} + .2\frac{40}{(100)}$ .8 (.5) + .2 (.4) .40 + .08 = 48%
B	3,000 Eligible Contracts 25 Agency, non-Wheel Trades	$.8\ \frac{3{,}000}{(10{,}000)} + .2\ \frac{25}{(100)}$ .8 (.3) + .2 (.25) .24 + .05 = 29%
C	2000 Eligible Contracts 35 Agency, non-Wheel Trades	$.8\ \frac{2{,}000}{(10{,}000)} + .2\ \frac{35}{(100)}$ .8 (.2) + .2 (.35) .16 + .07 = 23%
Total	10,000 Eligible Contracts 100 Trades	48% + 29% + 23% = 100%

(c) *Discussion.* Once a Wheel Participant has signed onto the Wheel, he or she will be assigned contracts on the Wheel during each revolution of the Wheel until his or her awarded number of Participation Units has been approximated. This may mean that multiple orders (or an order and a part of the succeeding order) will be assigned to the same Wheel Participant.

To understand how the AUTO–X orders will be allocated to Wheel Participants to meet those percentages, one must understand the concepts of ''Participation Units'' and ''Wedges.'' A

''Participation Unit'' is 1% of the Wheel and often may be equal to one contract. The Options Committee may determine the number of contracts that make up one Participation Unit. For example, if a Participation Unit equals one contract then there will be 100 AUTO–X contracts that will be assigned to Wheel Participants on every revolution of the Wheel. If a Participation Unit is defined as five contracts then there will be 500 AUTO–X contracts assigned to the Wheel Participants on every revolution of the Wheel.

Each Wheel Participant for a given option, regardless of whether such Wheel Participant executed any agency trades in Eligible Contracts during the immediately prior Review Period, is entitled to be assigned at least one Participation Unit on every revolution of the Wheel. Generally, the Wheel will consist of the number of Participation Units replicating the cumulative percentage of all Wheel Participants signed onto the system who have been awarded Participation Units based on agency trades in Eligible Contracts during the immediately prior Review Period, plus one Participation Unit for each Wheel Participant that has not been awarded a specific number of Participation Units.[15]

A''Wedge'' is the maximum number of Participation Units that a Wheel Participant may be consecutively assigned at any one time on the Wheel. The purpose of the Wedge is to break up the distribution of contracts into smaller groupings to reduce the exposure of any one Wheel Participant to market risk. If the size of the Wedge is smaller than the number of Participation Units to which a particular Wheel Participant is entitled, then that Wheel Participant would receive one or more additional assignments during one revolution of the Wheel.

(i) *Miscellaneous Aspects of the Operation of the Model.* a. *5% Cap for Large Trades.* The proposed rule provides that, in the event that the percentage that any individual non-Wheel agency trade effected by a Wheel Participant would exceed in size 5% of the Period total, then the number of Eligible Contracts attributable to such trade shall be counted, for purposes of calculating the Ratio, as the number of contracts equal to 5% of the Period Total. The purpose of this provision is to avoid the circumstance in which a Wheel Participant could obtain an unfair advantage in Participation Units over other regular Wheel Participants as a result of a single trade during the Review Period for an extraordinarily large size. The Exchange believes that this limitation on the number of contracts in any single transaction counted towards the Period Total, combined with the weighted calculation of total number of trades in Eligible Options during the Review Period, enhances incentives for specialists and ROTs to quote competitively by rewarding them not only for the number of Eligible Contracts traded the review Period, but also by taking into account the number of trades effected in Eligible Options during the Review Period.

b. *Specialist Election.* The proposed rule provides that the decision to participate in the Model pilot (as opposed to the Wheel allocation set forth in Section (e)(i) of the current OFPA) shall be made by the specialist on an issue-by-issue basis.[16] However, once the specialist determines to participate in the Model pilot, such participation shall be effective until the end of the Options Committee's periodic review described in Section (f) of the proposed rule, unless the Options Committee determines to permit the specialist, on an issue-by-issue basis, to opt out of the pilot program.

c. *Options Committee Review.* The proposed rule would require the Options Committee to review and evaluate the Model as needed, but not less frequently than on a six-month basis, to determine the effectiveness of the program to achieve its stated purpose as well as to resolve specific issues, including, without limitation, continued eligibility of an option on an issue-by-issues, including,without limitation, continued eligibility of an option on an issue-by-issue basis. The purpose of this provision is to enable the Options Committee to continually evaluate the effectiveness of the Model and to determine whether the Model is assigning contracts on the Wheel in proportion to a Wheel Participant's in-person, non-Wheel agency contracts traded during the Review Period. This provision would also enable the Options Committee to effect changes as needed in the Model that would further its stated purpose.

It is the Exchange's intent to implement the Model at or around the same time as two other proposals, specifically proposing (i) ROT access to the limit order book through electronic interface with AUTOM; and (ii) broker-dealer access to AUTOM.[17]

2. Statutory Basis

The Exchange believes that the implementation of the pilot program for the Model will result in AUTO-X contra-party participation that will essentially approximate a Wheel Participant's percentage of in-person, non-Wheel agency contracts executed, and number of trades effected, in options in which such Wheel participant is assigned. The Exchange further believes that such implementation will result in a higher Wheel Participation for those specialists and ROTs who are most active in providing the services that specialists and ROTs are expected to perform, *i.e.,* consistently providing liquidity in agency trades in the options in which such specialists and ROTs are assigned.

For these reasons, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [18] in general, and furthers the objectives of Section 6(b)(5) [19] in particular, in that it is designed to perfect the mechanism of a free and open market and a national market

[15] In the event that a new Wheel Participant signs onto the Wheel and is assigned one Participation Unit (representing 1% of the Wheel), the remaining 99 Participation Units would be allocated among all Wheel Participants that had attained Participation Units during the previous Review Period on a pro-rata basis according to their percentage of Participation Units attained. In the event that two new Wheel Participants sign onto the Wheel and each is assigned one Participation Unit (representing a total of 2% of the Wheel), the remaining 98 Participation Units would be allocated among all Wheel Participants that had attained Participation Units during the previous Review Period in the same fashion, etc.

In the event that a Wheel Participant that has attained Participation Units during the previous Review Period is not signed-on to the Wheel during a portion of the Trading Period, the Wheel will consist of the number of Participation Units remaining while such Wheel Participant is not signed-on to the Wheel. For example, if a Wheel Participant attains 7 Participation Units during the previous Review Period and is not signed-on during a portion of the Trading Period, the Wheel will consist of 93 Participation Units. In this case, a full revolution of the Wheel would occur every 93 contracts.

[16] The Exchange has represented that it will amend the proposal to clarify that the decision by the specialist to participate in the Model pilot is subject to the approval of the Options Committee. Telephone conversation between Richard S. Rudolph, Counsel, Phlx, and Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission (September 21, 2001).

[17] The Exchange represents that the proposal regarding broker-dealer access to AUTOM was filed as SR–Phlx–2001–40 on May 2, 2001 and is pending with the Commission. The Exchange also represents that the proposal regarding ROT access to the limit order book has not yet been filed with the Commission. The Exchange will notify all members on the Options Floor when it has completed the development of the systems necessary to implement these changes, and/or deployed such systems on the Options Floor. This provision is included in the proposed rule change because, in the event that the Commission approves this proposal, the Exchange's ability to deploy such systems may not coincide with the effective date of the rule.

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

[19] 15 U.S.C. 78f(b)(5).

system, protect investors and the public interest and promote just and equitable principles of trade by enhancing incentives for Exchange specialists and ROTs to quote competitively by assigning AUTO-X contra-side participation in proportion to their in-person, non-Wheel agency contracts traded and number of trades effected.

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

Written comments were neither solicited nor 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 the self-regulatory organization consents, the Commission will:

A. By order approve the 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, as amended, 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 at the Commission's Public Reference room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR–Phlx–2001–30 and should be submitted by October 19, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24280 Filed 9–27–01; 8:45 am]

BILLING CODE 8010–01–M

[20] 17 CFR 200.30–3(a)(12)

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3366]

Commonwealth of Virginia

As a result of the President's major disaster declaration on September 21, 2001, I find that Arlington County in the Commonwealth of Virginia constitutes a disaster area due to damages caused by explosions and fires occurring on September 11, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 21, 2001 and for economic injury until the close of business on June 21, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303–1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Fairfax County and the Independent City of Alexandria in the Commonwealth of Virginia; the District of Columbia; and Montgomery County in the State of Maryland.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.750
Homeowners Without Credit Available Elsewhere	3.375
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 336604. For economic injury the number is 9M8300 for Virginia; 9M8400 for the District of Columbia; and 9M8500 for Maryland.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 24, 2001.

Herbert L. Mitchell,

Associate Administrator For Disaster Assistance.

[FR Doc. 01–24402 Filed 9–27–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3790 TE]

Culturally Significant Objects Imported for Exhibition Determinations: "Splendid Isolation: The Art of Easter Island"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 et seq.), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended by Delegation of Authority No. 236–3 of August 28, 2000 (65 FR 53795), and Delegation of Authority dated June 29, 2001, I hereby determine that the objects to be included in the exhibit, "Splendid Isolation: The Art of Easter Island," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about December 12, 2001, to on or about August 4, 2002, and other possible venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.