Phlx Rule 229, Supplementary Material .06 through .10 previously required specialists to accept orders of 1099 shares in the following situations: (i) Section 229.06—market orders entered before the New York market opening; (ii) Section 229.07(b)—market orders entered after the New York market opens; and (iii) Sections 229.10(b)–(c)—the method of execution given to PACE orders. The Exchange proposed to increase the minimums contained in these sections to 2099 shares. Under the proposal, specialists will continue to be able to raise their own minimum delivery requirements for individual stocks to level higher than the proposed minimum of 2099 shares.

III. Discussion

After careful review, 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.[5] In particular, the Commission believes the proposal is consistent with Section 6(b)(5), which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments 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.[6] The Commission believes that the proposed 2099 share minimum guaranteed order delivery size is reasonable and may benefit investors by providing them with the flexibility to deliver large sized orders to the specialist for automatic execution through PACE. The Commission further notes that specialists may voluntarily increase the minimum guaranteed order delivery size on an issue by issue basis.

IV. Conclusion

For the foregoing reasons, the Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with section 6(b)(5).[7]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–Phlx–98–46) is approved.

[5] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(5).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–4956 Filed 2–26–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41079; File No. SR–Phlx–98–38]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Assessment of a Fee on Persons Who Unsuccessfully Contest an Options Ruling Involving a Trading Dispute

February 22, 1999.

I. Introduction

On August 26, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change assessing a fee on persons who unsuccessfully contest an options ruling involving a trading dispute. Several amendments were thereafter received.[3]

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

[2] 17 CFR 240.19b–4.

[3] By letter dated August 31, 1998, the Exchange revised the effective date of its proposal. *See* letter from Linda S. Christie, Counsel, Phlx, to Mandy Cohen, Special Counsel, Division of Market Regulation (''Division''), Commission (''Amendment No. 1''). Next, the Exchange (a) clarified that the proposed fee would apply to frivolous appeals of option floor decisions only, and (b) made conforming changes to Rule 124 and Options Floor Procedure Advice F–27. *See* letter from Nandita Yagnik, Attorney, Phlx, to Mandy Cohen, Special Counsel, Division, Commission, dated November 18, 1998 (''Amendment No. 2''). In its December 9, 1998 letter, the Exchange clarified that (a) the Options Committee approved the changes made by Amendment No. 2, and (b) the amendment dated November 18, 1998, is Amendment No. 2. In addition, the Phlx made minor technical changes to the rule language. *See* letter from Nandita Yagnik, Attorney, Phlx, to Mandy Cohen, Special Counsel, Division, Commission (''Amendment No. 3''). The Exchange also made technical changes to its proposed rule language and further clarified that the proposed rule change amends only Advice F–27 for options and not for equities. *See* letter from Nandita Yagnik, Attorney, Phlx, to Mandy Cohen, Special Counsel, Division, Commission, dated December 23, 1998 (''Amendment No. 4''). In a final amendment, the Exchange made technical changes to its proposed rule change. *See* letter from Nandita Yagnik, Attorney, Phlx, to Mandy Cohen, Special Counsel, Division, Commission dated January 12, 1999 (''Amendment No. 5'').

The proposed rule change, as amended by Amendments No. 1 through 4, was published for comment in the **Federal Register** on January 22, 1999.[4] No comments were received on the proposal. This order approves the approval.

II. Description

The Exchange proposes to amend Phlx Rule 124 and Options Floor Procedure Advice F–27, Floor Official Rulings, to assess a $250.00 fee on persons who unsuccessfully contest an options ruling imposed under Phlx Rule 124, upon a finding by a Rule 124(d) review panel that the appeal is frivolous.

III. Discussion

After careful review the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] Specifically, the Commission believes that the proposal is consistent with the requirements of section 6(b)(5) of the Act,[6] because it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices and remove impediments to and perfect the mechanism of a free and open market and a national market system by discouraging unwarranted appeals that may slow the appeals process, and allowing swifter access to the appeals process by bona fide claimants.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–Phlx–98–38) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–4957 Filed 2–26–99; 8:45 am]

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[4] Securities Exchange Act Release No. 40936 (January 12, 1999), 64 FR 3581. Since Amendment No. 5 was technical in nature, it does not require publication for notice and comment.

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

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).