

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44537; File No. SR-PHLX-2001-36]

Self Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change To Revise the Fine Schedule for Options Floor Procedure Advices

July 11, 2001.

On May 17, 2001, 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")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the Fine Schedule for Options Floor Procedure Advices. The Phlx amended the proposal on May 29, 2001.

The proposed rule change, as amended, was published for comment in the **Federal Register** on June 5, 2001.³ The Commission received no comments on the proposal.

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 exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act⁶ because it will help prevent fraudulent and manipulative acts and practices, as well as promote just and equitable principles of trade. The Commission finds the proposal is consistent with Section 6(b)(6) of the Act,⁷ because the proposal provides a mechanism for the appropriate discipline for violations of certain rules and regulations.

In addition, the Commission finds the proposal is consistent with Section 6(b)(7) of the Act⁸ because the proposal provides a fair procedure for the disciplining of members and persons associated with members. The Commission also finds the proposal is

consistent with Section 6(b)(8) of the Act,⁹ in that it furthers the statutory goal of providing a fair procedure for disciplining the Phlx's members and associated persons. Finally, the Commission finds the proposal is consistent with Securities Exchange Act Rule 19d-1(c)(2)¹⁰ that governs minor rule violation plans.

In approving this proposal, the Commission in no way minimizes the importance of compliance with these rules, and all other rules subject to the imposition of fines under the Phlx's minor rule violation enforcement and reporting plan. The Commission believes that the violation of any self-regulatory organizations' rules, as well as Commission rules, is a serious matter. However, in an effort to provide the Exchange with greater flexibility in addressing certain violations, the minor rule violation enforcement and reporting plan provides a reasonable means to address rule violations that do not rise to the level of requiring formal disciplinary proceedings. The Commission expects that the Phlx will continue to conduct surveillance with due diligence, and make a determination based on its findings whether fines of more or less than the recommended amount are appropriate for violations of rules under its plan, on plan, on a case by case basis, or if a violation requires formal disciplinary action.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-PHLX-2001-36), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44543; File No. SR-Phlx-2001-26]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc.; Relating to ROT Vocalization Requirements for Options Quotations

July 12, 2001.

I. Introduction

On March 5, 2001, 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 to add an express vocalization requirement for Phlx Registered Options Traders ("ROTs") whose quotation for a particular option series is different from the disseminated quote. The **Federal Register** published the proposed rule change for comment on June 6, 2001.³ The Commission received no comments on the proposed rule change. This order approves the proposal.

II. Description of Proposal

The Phlx proposes to amend Commentary .01 to Phlx Rule 1080 to clarify that the quote disseminated by the Exchange's Auto-Quote system⁴ or by a specialist's proprietary system that interfaces with the Exchange's Automated Options Market, which electronically prices options, is deemed to be the quote of all ROTs⁵ in the crowd unless the ROT has vocalized a different quote in a clear and audible manner with sufficient time for the specialist to take action to update the quote, if necessary.⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 44369 (May 30, 2001), 66 FR 30496.

⁴ Auto-Quote is the Exchange's electronic options pricing system, which enables specialists to automatically monitor and instantly update quotations.

⁵ 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 options for his own account. See Phlx Rule 1014(b).

⁶ The ROT must vocalize a different quote before an order enters the system. If an ROT believes that he or she has been unfairly allocated a portion of the order, he or she can challenge the allocation pursuant to Phlx Rule 124. Telephone call between Rick Rudolph, Counsel, Phlx, Terri Evans, Special Counsel, Division of Market Regulation ("Division"), Commission, and Sonia Patton, Staff Attorney, Division, Commission (May 24, 2001).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 44366 (May 29, 2001), 66 FR 30258.

⁴ 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).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(6).

⁸ 15 U.S.C. 78f(b)(7).

⁹ 15 U.S.C. 78f(b)(8).

¹⁰ 17 CFR 240.19d-1(c)(2).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).