

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 Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-95-05 and should be submitted by September 19, 1995.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,<sup>30</sup> that the proposed rule change (SR-Amex-95-05), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>31</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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[Release No. 34-36135; File No. SR-CBOE-95-44]

**Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Implementation of Systems Changes That Automate Certain Trading Suspensions in Options**

August 22, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Currently, CBOE Rule 6.3, "Trading Halts," Interpretation and Policy .01, provides that a Post Director<sup>1</sup> or the

OBO at a station may suspend trading (including a rotation) for a class or classes of option contracts traded at the station for not longer than five minutes whenever trading in the underlying exchange-listed security is halted or suspended in the primary market, but only if the trading halt or suspension is evidenced by an "ST" symbol (for an exchange-listed security) or an "H" symbol (for a security traded primarily in the over-the-counter market) that appears on the Class Display Screen for that underlying security, or the trading halt or suspension is verified by the senior person then in charge of the Exchange's control room. The CBOE proposes to amend Exchange Rule 6.3, Interpretation and Policy .01 to implement systems changes that will provide automatic, computerized procedures to suspend trading in specified options classes whenever there is a halt or suspension of trading in an exchange-listed underlying security in the primary market as evidenced by the dissemination by that market of an "ST" symbol. The automatic trading suspension will apply only to options on exchange-listed securities. For options on securities traded in the over-the-counter market, a Post Director or OBO will act, as currently provided for, to suspend options trading when trading in the underlying security has been halted or suspended.

The text of the proposal is available at the Office of the Secretary, CBOE and the Commission.

**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 self-regulatory organization 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 self-regulatory organization 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**

The purpose of the proposed rule change is to amend CBOE Rule 6.3, Interpretation and Policy .01 to reflect systems changes that will provide automatic procedures to suspend trading in specified classes of options

when trading in the underlying exchange-traded security is halted or suspended in the primary market. Currently, under CBOE Rule 6.3, a Post Director or OBO acts to suspend trading in affected classes of options on the CBOE whenever trading in an underlying security is halted or suspended in the primary market. Under CBOE Rule 6.3, Interpretation and Policy .01, the suspension can remain in effect for up to five minutes; any suspension of trading longer than five minutes may only be declared by two Floor Officials pursuant to CBOE Rule 6.3(a).

According to the Exchange, the first indication that trading in an underlying exchange-listed security has been halted or suspended in the primary market is usually the appearance on the Class Display Screen for the underlying security of an "ST" symbol dissemination by the primary market.<sup>2</sup> Since it may take a Post Director or an OBO some period of time (which could be 30 seconds or more) to take note of such an indication and act to suspend trading in the affected options, an alert trader may observe the ST symbol, correctly surmise why trading has been suspended, and buy or sell options before trading in the options is suspended, thereby taking advantage of orders entered prior to the time of the suspension of trading of the underlying security.

The CBOE believes that the shorter the delay between the time trading in an underlying security is suspended in the primary market and the time the CBOE suspends trading in the related option, the less opportunity there is for this type of trading activity to take place. To this end, the CBOE has developed, and proposes to implement, an automated, computerized procedure that is capable of reading the market data feed from the primary exchange market<sup>3</sup> (currently

<sup>2</sup> It has been the Exchange's experience that the New York Stock Exchange ("NYSE") and the American Stock Exchange ("Amex"), which are the primary markets for most of the stocks underlying options traded on the CBOE, may be relied upon to disseminate an "ST" symbol immediately upon suspension of trading in any stock.

<sup>3</sup> The Consolidated Tape Association ("CTA"), which consists of the Amex, the Boston Stock Exchange, the CBOE, the Chicago Stock Exchange, the Cincinnati Stock Exchange, the National Association of Securities Dealers, the NYSE, the Philadelphia Stock Exchange, and the Pacific Stock Exchange, established the Consolidated Tape to disseminate last sale transaction information for trades executed on any of the member exchanges or through NASDAQ. The Securities Information Automation Corporation ("SIAC"), a subsidiary of the NYSE and the Amex, conducts the day-to-day operations of the Consolidated Tape. SIAC makes this information available to all subscribers to the Consolidated Tape; the information disseminated

<sup>30</sup> 15 U.S.C. § 78s(b)(2) (1988).

<sup>31</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> A Post Director is an Exchange employee at a trading post whose function is to assist the Order Book Official ("OBO") and the Designated Primary Market Maker at each station at the post.

available from the NYSE and the Amex) and suspending trading on the floor and turning off the Retail Automatic Execution System ("RAES") for a specific class or classes of options whenever trading is suspended and an "ST" symbol appears for the underlying exchange-listed security. By eliminating the delay occasioned by the need for human intervention, the automated procedure will permit the suspension of options trading at virtually the same instant as the "ST" symbol first appears.

The Exchange notes that options trading suspensions that are implemented automatically by computer pursuant to the proposed procedure will be subject to the same conditions and limitations that apply to suspensions declared by a Port Director or OBO under existing CBOE Rule 6.3, Interpretation and Policy .01. That is, no trading suspension may exceed five minutes in duration unless it has been declared by two Floor Officials, and successive five-minute trading suspensions may not be combined. Any longer suspensions of trading may be declared only by two Floor Officials pursuant to CBOE Rule 6.3(a). Notice of the automatic suspension of options trading shall be disseminated to the trading floor and over the Options Price Reporting Authority ("OPRA") by disseminating a "T" symbol and quotation designation 998-999. The CBOE states that the time and duration of the suspension shall be reflected in the Exchange's time and sales display, which is made available through vendor networks.

In addition, the proposal makes a technical correction to CBOE Rule 6.3, Interpretation and Policy .01 by eliminating the reference therein to Exchange Rule 6.3A, which has been rescinded.

By eliminating the delay between the suspension of trading in an underlying security and the suspension of trading in related options, the CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade and protect investors and the public interest.

for each transaction includes the stock symbol, the volume of the trade in round lots, and the price at which the transaction was executed. Information the trading in a stock has been halted also appears on the Consolidated Tape.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The CBOE does not believe that the proposed rule change will impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

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

The CBOE has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act. The CBOE states that the Exchange has devoted considerable resources to developing a computer program that permits the automatic suspension of trading immediately upon the appearance of the "ST" symbol indicating that trading in an underlying exchange-listed security has been suspended. The Exchange believes that it furthers the protection of investors and the public interest to eliminate any delay between the time trading is suspended in an underlying security and the time trading in the related options is suspended. Because the CBOE has developed and tested the computer program, the Exchange believes it should be permitted to implement the program as soon as possible. The CBOE further claims that the proposed rule change effects a change in an existing trading system of the Exchange that does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and does not have the effect of limiting the access to or availability of the system, and accordingly should be approved on an accelerated basis.

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, and, in particular, the requirements of Section 6(b)(5) thereunder<sup>4</sup> in that the proposal is designed to perfect the mechanism of a free and open market and to protect investors and the public interest. Specifically, the proposal will allow the Exchange to implement a program that provides an automatic, computerized suspension of trading and disengagement of RAES in specified options classes when trading in the

underlying exchange-listed security is suspended or halted in the primary market. According to the CBOE, the proposed computer program is currently able to read the market data feed from the NYSE and Amex and immediately suspend trading in a specific options class or classes whenever an "ST" symbol appears in connection with the underlying security, thereby eliminating the potential delay present in the current system, which requires action by a Post Director or OBO to suspend options trading in response to a trading halt in the underlying security.

Accordingly, the Commission believes that the proposal will protect investors by enhancing the Exchange's existing ability under CBOE Rule 6.3, Interpretation and Policy .01 to implement a temporary suspension of options trading when an "ST" symbol appears. The Commission notes that options trading suspensions implemented automatically pursuant to the proposal will be subject to the same conditions and limitations that are currently provided in CBOE Rule 6.3, Interpretation and Policy .01. Specifically, no trading suspension under CBOE Rule 6.3, Interpretation and Policy .01 may exceed five minutes, unless it has been declared by two Floor Officials pursuant to CBOE Rule 6.3(a), and successive five-minute trading suspensions may not be combined. In addition, the CBOE will disseminate notice of an automatic suspension of trading to the trading floor and over OPRA. Moreover, the time and duration of the suspension will be reflected in the Exchange's time and sales display, which is made available through vendor networks.

The Commission believes that it is reasonable for the CBOE to rely on the accuracy of the "ST" symbol. In this regard, the Commission notes that CBOE Rule 6.3, Interpretation and Policy .01 currently allows an OBO or Post Director to suspend options trading when an "ST" symbol appears. The CBOE states that the data feed from the primary market is reliable and that an "ST" symbol has never been disseminated inaccurately.<sup>5</sup> In addition, the Commission notes that it is the policy of the Exchange to contact the primary market immediately after an "ST" symbol appears to verify the trading halt in the underlying security and to determine the reasons for the

<sup>5</sup> Telephone conversation between Michael Meyer, Schiff Hardin & Waite, and Yvonne Fraticelli, Attorney, Options Branch, Division of Market Regulation, Commission, on August 18, 1995.

<sup>4</sup> 15 U.S.C. § 78f(b)(5) (1982).

suspension of trading in the underlying security.<sup>6</sup>

The Commission also finds that the proposal to delete an inaccurate reference to CBOE Rule 6.3A is consistent with the Act because it clarifies CBOE Rule 6.3 and helps to ensure the accuracy of the rule.<sup>7</sup>

Finally, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** because the proposal automates a function currently allowed under CBOE Rule 6.3 to suspend promptly options trading when the primary market has suspended trading in the underlying security. The proposal is also consistent with, and helps to implement, CBOE Rule 6.3, Interpretation and Policy .04, which provides that trading in a stock option will be halted when a regulatory halt in the underlying stock has occurred in the primary market for that stock. For these reasons, the Commission believes it is consistent with Sections 19(b)(2) and 6(b)(5) of the Act to approve the proposed rule change on an accelerated basis.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should

<sup>6</sup> *Id.*

<sup>7</sup> CBOE Rule 6.3A, "Equity Market Trading Halt," required the Exchange to halt trading in all stock options and all stock index options when trading in stocks on the NYSE had been halted or suspended as a result of the activation of circuit breakers on the NYSE. CBOE Rule 6.3A has been deleted from the CBOE's rules. See Securities Exchange Act Release No. 35789 (May 31, 1995), 60 FR 30127 (June 7, 1995) (order approving File No. SR-CBOE-95-05).

refer to the file number in the caption above and should be submitted by September 19, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR-CBOE-95-44), is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Release No. 34-36137; File No. SR-Phlx-95-14]

### Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Extension of Market Maker Margin Treatment to Certain Market Maker Orders Entered from Off the Trading Floor

August 23, 1995.

#### I. Introduction

On March 1, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "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> to extend market maker margin treatment to opening orders entered by Phlx Registered Options Traders ("ROTs") from off the Exchange floor, provided that the greater of 1,000 contracts or 80% of an ROT's total transactions on the Exchange in a calendar quarter are executed in person,<sup>3</sup> and not through the use of orders. Phlx ROTs would also be required to execute at least 75% of their quarterly contract volume in assigned options. The Exchange filed Amendment No. 1 to the proposal on March 29, 1995.<sup>4</sup> The Exchange filed

<sup>8</sup> 15 U.S.C. § 78s(b)(2) (1982).

<sup>9</sup> 17 CFR 200.30-3(a)(12) (1994).

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

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

<sup>3</sup> "In person" means that options transactions are personally executed by a Registered Options Trader on the Phlx floor.

<sup>4</sup> In Amendment No. 1, the Exchange proposes to require Phlx ROTs to execute at least 75% of their quarterly trades in assigned options for purposes of receiving market maker margin treatment for off-floor orders. The Exchange originally proposed to require an ROT to trade at least 50% of his quarterly contract volume in assigned options. In addition, Amendment No. 1 states that Phlx proposes to

Amendment No. 2 to the proposal on July 25, 1995.<sup>5</sup>

Notice of the proposal, as amended by Amendment No. 1, was published for comment and appeared in the **Federal Register** on May 18, 1995.<sup>6</sup> No comment letters were received on the proposed rule change. This order approves the Exchange's proposal, as amended.

#### II. Background

Generally, a trade for the account of a specialist or ROT receives market maker, or good faith, margin,<sup>7</sup> as well as favorable capital treatment,<sup>8</sup> due to the affirmative and negative market making obligations<sup>9</sup> imposed on such floor traders by Exchange and Commission rules. Further, Rule 1014, Commentary .01 states that ROTs are considered "specialists" for the purposes of the Act and the rules thereunder, which includes capital and margin rules, respecting option transactions initiated and effected by the ROT on the floor in the capacity of an ROT. Accordingly, transactions initiated on-floor by Phlx ROTs are entitled to receive favorable market maker margin treatment. Off-floor opening<sup>10</sup> market maker

delete the fine schedules under the minor rule plan originally proposed to address violations of the heightened trading requirements, because violations of this program are to be reviewed directly by the Business Conduct Committee and are not to be treated as minor rule plan violations. Finally, Phlx proposes to clarify that the phrase "may exempt one or more classes of options from this calculation" in Commentary .01 to Phlx Rule 1014, is intended to mean that certain options may not be eligible for off-floor market maker treatment. See Letter from Gerald O'Connell, First Vice President, Phlx, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated March 29, 1995 ("Amendment No. 1").

<sup>5</sup> In Amendment No. 2, the Exchange deletes the reference to "liquidating open positions" from Phlx Rule 1014, Commentary .01. The Exchange notes that this amendment does not substantially change the proposal because liquidating an open position is the same as closing a position, which does not require the extension of margin. The Exchange also proposes to amend Advice B-12 to clarify that the Floor Broker is responsible for clearing the Phlx crowd before executing a multiply-traded option on another exchange when initiated from off-floor. Finally, the Exchange proposes to add to Advice C-3 a reference to the new Floor Broker responsibility as enumerated in Advice B-12. See Letter from Gerald O'Connell, First Vice President, Phlx, to Michael Walinskas, Branch Chief, OMS, Market Regulation, Commission, dated July 25, 1995 ("Amendment No. 2").

<sup>6</sup> See Securities Exchange Act Release No. 35710 (May 12, 1995), 60 FR 26754.

<sup>7</sup> Regulation T of the Federal Reserve Board, Section 220.12.

<sup>8</sup> SEC Rule 15c3-1(b)(1).

<sup>9</sup> See e.g., Phlx Rule 1014(a) and (c).

<sup>10</sup> Questions of margin and capital treatment do not arise in connection with closing transactions, because such positions only reduce or eliminate existing positions. See Amendment No. 2, *supra* note 5.