SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39975; File No. SR-PHLX-98–03]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Trading Disputes and Floor Official Rulings

May 7, 1998.

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposal to replace the current text of PHLX Rule 124, ''Disputes,'' with new text. In the filing, the PHLX also proposed to adopt Floor Procedure Advice (''Advice'') F–27, ''Floor Official Rulings—Options'' and F–27, ''Floor Official Rulings—Equity'' (together, the ''Advices''), which incorporate and expand upon the provisions of PHLX Rule 124. On March 3, 1998, the PHLX amended its proposal.[3] Notice of the proposed rule change and Amendment No. 1 to the proposed rule change were published for comment in the **Federal Register** on March 17, 1998.[4] No comments were received regarding the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The PHLX proposes to codify its current procedures regarding floor officials' rulings by replacing the text of PHLX Rule 124[5] with new text and adopting two Advices. The Advices will be published in the PHLX's Floor Procedure Advice handbook. According to the PHLX, the proposal will incorporate expressly into the PHLX's rules the Exchange's current procedures for resolving trading disputes and the role of floor officials in resolving trading disputes.

New PHLX Rule 124 also acknowledges that, in addition to resolving trading disputes, floor officials may issue citations for violations of Floor Procedure Advices pursuant to PHLX Rule 970, ''Floor Procedure Advices: Violations, Penalties, and Procedures,'' and for violations of the PHLX's order and decorum regulations, pursuant to PHLX Rule 60, ''Assessments for Breach of Regulations.'' The PHLX's proposal contains two provisions applicable to all rulings by floor officials. First, the Advices set forth a conflict of interest provision which states that a floor official should not render a decision or authorize a citation where the floor official was involved in or affected by the dispute, or in any situation where the floor official is not able to objectively and fairly render a decision. Second, PHLX Rule 124(b) states that all rulings by floor officials are effective immediately and must be complied with promptly. Failure to comply promptly with a ruling concerning a trading dispute may result in a referral to the PHLX's Business Conduct Committee (''BCC''). Failure to comply with a floor official's ruling issued pursuant to PHLX Rule 60 or PHLX Rule 970 may result in an additional violation of those rules. For example, a first violation for disorderly conduct that does not cease promptly after the floor official issues the violation will result in a second violation, also for disorderly conduct.

The remaining provisions of new PHLX Rule 124 concern trading disputes. Specifically, new PHLX Rule 124(a) states that disputes occurring on and relating to the trading floor, if not settled by agreement between the interested members, shall be settled, if practicable, by vote of the members knowing of the transaction; if not so settled, the disputes shall be settled by a floor official summoned to the trading crowd. In resolving trading disputes, floor officials may institute the course of action deemed to be most fair to all parties under the circumstances at the time. A floor official may direct the execution of an order on the floor or adjust the transaction terms or participants to an executed order. In addition, two floor officials may nullify a transaction if they determine that the transaction violated certain enumerated PHLX rules.[6] The Advices state that floor officials need not render decisions unless the request for a ruling is made within a reasonable period of time.

PHLX Rule 124(c) identifies the procedures for review of floor officials' rulings. Specifically, PHLX Rule 124(c) states that floor officials' rulings issued under the PHLX's order and decorum regulations are reviewable pursuant to PHLX Rule 60, and that floor officials' rulings issued under Floor Procedure Advices are reviewable pursuant to PHLX Rule 970. Floor officials' rulings in connection with trading disputes are reviewable pursuant to the procedures established in new PHLX Rule 124(d).

Under PHLX Rule 124(d), floor officials' rulings for options and FCO trading are reviewable by a minimum of three members of the applicable Subcommittee on Rules and Rulings or by the Chairperson of the applicable standing committee[7] (or his or her designee) if three Subcommittee members cannot be convened promptly. With respect to equity trading, floor officials' rulings are reviewable by a minimum of three members of the Floor Procedure Committee, or the Chairperson of the Floor Procedure Committee (or his or her designee) if three members cannot be convened promptly. This will be the designated review panel for floor officials' rulings.

The Advices state that a member must submit a request for review of a floor official's ruling to the Director of the PHLX's Market Surveillance Department (or his or her designee) within 15 minutes from the time the contested ruling was rendered.[8] Floor officials'

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

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Linda S. Christie, Counsel, PHLX, to Yvonne Fraticelli, Attorney, Division of Market Regulation (''Division''), Commission, dated March 3, 1998 (''Amendment No. 1''). Amendment No. 1 revises the text of PHLX Rule 124 to make the rule consistent with the Advices. Specifically, Amendment No. 1 modifies the text of PHLX Rule 124 to indicate that two options floor officials (rather than one floor official) may nullify a transaction if they determine that the transaction violated any of the following PHLX Rules: 1014, ''Obligations and Restrictions Applicable to Specialists and ROTs;'' 1015, ''Quotation Guarantees;'' 1017, ''Priority and Parity at Openings in Options;'' 1033, ''Bids and Offers—Premium;'' or 1080, ''PHLX Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X).'' In addition, Amendment No. 1 indicates that two equity floor officials (rather than one floor official) may nullify a transaction if they determine that the transaction violated any of the following PHLX Rules: 110, ''Bids and Offers—Precedence;'' 111. ''Bids and Offers Binding;'' 118. ''Bids and Offers Outside Best Bid and Offer;'' 119. ''Precedence of Highest Bid;'' 120, ''Precedence of Offers at Same Price;'' 126, '''Crossing' Orders;'' 203, ''Agreement of Specialist;'' 218, ''Customer's Order Receives Priority;'' 229, ''Philadelphia Stock Exchange Automated Communication and Execution System (PACE);'' 232, ''Handling Orders When the Primary Market is Not Open for Free Trading (EXP, PPS, GTX Orders);'' or 455, ''Short Sales.''

[4] *See* Securities Exchange Act Release No. 39741 (March 11, 1998), 63 FR 13087.

[5] Currently, PHLX Rule 124 states that ''[d]isputes arising on bids or offers, if not settled by agreement between the members interested, shall be settled, if practicable, by vote of the members knowing of the transaction in question; if not so settled, they shall be settled by the Committee.'' The ''Committee'' is the applicable floor standing committee. The applicable standing committees are the Floor Procedure Committee for the equity floor; the Options Committee for the equity option floor and the index option floor; and the Foreign Currency Options (''FCO'') Committee for the FCO floor.

[6] *See* Amendment No. 1, *supra* note 3.

[7] *See* note 5, *supra*, for a description of the jurisdiction of the standing committee.

[8] The review panel will try to meet as soon as practicable after notice of a request for a review of a floor official's rulings. The PHLX notes, however, that this time frame will apply to the extent practicable under the circumstances, particularly if

rulings may be sustained, overturned, or modified by a majority vote of the review panel members present.[9] In making the determination, the review panel may consider facts and circumstances not available to the ruling floor official as well as actions taken by the parties in reliance on the floor official's ruling (*e.g.*, cover, hedge, and related trading activity). Decisions of the review panel are final and may be appealed to the PHLX's Board of Governors as a final decision of the standing floor committee pursuant to PHLX By-Law Article XI, ''Appeals.'' The PHLX notes that neither floor officials' rulings or reviews of floor officials' rulings preclude a person from seeking redress through the PHLX's arbitration facilities.[10]

The Advices reiterate the provisions in PHLX Rule 124 and provide additional details regarding the operation of PHLX Rule 124. Among other things, the Advices state that floor officials shall try to be prompt in rendering decisions. However, a floor official may delay rendering a ruling until discovery is completed if the floor official determines that the benefits of further discovery as to the facts and circumstances of the matter under review outweigh the monetary risks of a delayed ruling.

III. Discussion

The Commission finds that the proposed rule change is consistent with the Act and, in particular, with Section 6(b)(5) of the Act, in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[11] According to the PHLX, the proposal codifies the Exchange's existing procedures for resolving trading disputes, including the role and authority of floor officials in resolving trading disputes and the means for appealing floor officials' decisions. By codifying the Exchange's procedures for resolving trading disputes, the Commission believes that the proposal will help to ensure that PHLX members are aware of the PHLX's rules governing the resolution of trading disputes and will facilitate compliance with those rules. In addition, the Commission believes that the trading dispute resolution procedures in PHLX Rule 124 and the Advices will help to ensure that the PHLX's markets function in a fair, orderly, and efficient manner.

PHLX Rule 124(a) allows a member to summon a floor official to settle a dispute on the trading floor if neither the interested members or members with knowledge of the transaction are able to resolve the dispute. The Commission notes that the trading dispute resolution authority granted to floor officials under PHLX Rule 124 and the accompanying Advices is similar to the authority granted to floor officials under the rules of other securities exchanges.[12]

In addition, the Commission believes that several requirements in PHLX Rule 124 and the Advices will provide members and floor officials with guidance concerning the resolution of trading disputes and help to enhance the fairness, accuracy, and integrity of floor officials' decisions. In this regard, PHLX Rule 124(a) and the Advices require a floor official resolving a trading dispute to institute the course of action he or she deems to be most fair to all parties under the circumstances at the time. In addition, the Advices allow a floor official to delay rendering a ruling if the floor official believes that the benefits of further discovery concerning the facts and circumstances of a matter outweigh the monetary risks of a delayed ruling. The Advices also establish a conflict of interest provision applicable to all ruling by floor officials.[13] Specifically, the Advices state that a floor official should not render a decision or authorize a citation when the floor official was involved in or affected by dispute, or in any situation where the floor official is not able to objectively and fairly render a decision.

The Commission believes that the proposal will provide additional clarity to the process of resolving trading disputes by specifying the remedies available to floor officials resolving such disputes. In this regard, PHLX Rule 124(a) and the Advices state that a floor official resolving a trading dispute may direct the execution of an order on the floor or adjust the transaction terms or participants to an executed order. In addition, two floor officials may nullify a transaction if they conclude that the transaction violated any of the PHLX rules enumerated in PHLX Rule 124(a)[14] and in the Advices. The Commission believes that permitting floor officials to nullify transactions only for violations of these enumerated rules will provide guidance to floor officials concerning the circumstances under which it may be appropriate to nullify a trade. In addition, requiring the approval of two floor officials to nullify a transaction will help to ensure that this remedy is used appropriately.[15]

The Commission believes that several provisions in new PHLX Rule 124(b) and in the Advices will facilitate the enforcement of floor officials' rulings. In this regard, PHLX Rule 124(b) and the Advices indicate that all rulings by floor officials are effective immediately and must be complied with promptly. Moreover, PHLX Rule 124(b) and the Advices note that failure to comply with a floor official's ruling in a trading dispute may result in a referral to the PHLX's BCC, and failure to comply with rulings issued pursuant to PHLX Rule 60 or to Floor Procedure Advices may result in the finding of an additional violation of those rules.

PHLX Rule 124 and the Advices also specify the procedures for requesting a ruling from a floor official and for appealing a floor official's ruling in connection with a trading dispute.[16] As noted above, PHLX Rule 124(a) allows a member to summon a floor official to resolve a trading dispute. The Advices state that floor officials need not render a decision unless the request for a ruling was made within a reasonable period of time. In addition, the Advices indicate that a member must submit a request for review of a floor official's ruling to the PHLX's Director of Market Surveillance

convening a review panel proves to be difficult due to the time of day, heavy trading volume, or scheduling conflicts. In addition, the PHLX notes that, in connection with options trading, the obligations to maintain a fair and orderly market or the due diligence requirements of PHLX Rule 1063 may prevail over the obligation of a floor official to provide a ruling or attend a review.

[9] *See* PHLX rule 124(d).

[10] *See* PHLX Rule 950, ''Arbitration.''

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

[12] *See e.g.*, NYSE Rule 75, ''Disputes as to Bids and Offers'' (allowing a floor official to settle disputes concerning bids or offers that are not settled by agreement between the interested members); and Amex Rule 22(c) (allowing a floor official to resolve market disputes submitted to him by members).

[13] As noted above, the conflict of interest provision applies to floor officials' actions pursuant to PHLX Rules 60 and 970, as well as to floor officials' rulings pursuant to PHLX Rule 124.

[14] *See* Amendment No. 1, *supra* note 3.

[15] The Commission notes that the rules of the Chicago Board Options Exchange, Inc. (''CBOE'') also permit two floor officials to nullify a transaction. Specifically, Interpretation and Policy .05 to CBOE Rule 6.20, ''Admission to and Conduct on the Trading Floor,'' allows two floor officials to nullify a transaction or adjust its terms if they determine that the transaction violated any of the following CBOE rules: (1) 6.43 (manner of bidding and offering); (2) 6.45 (priority of bids and offers); (3) 6.46 (transactions outside the book's last quoted range); (4) 6.47 (priority on split price transactions); or (5) 8.51 (trading crowd firm disseminated market quotes).

[16] Floor officials' rulings issued pursuant to the PHLX's order and decorum regulations are reviewable pursuant to PHLX Rule 60; floor officials' rulings issued pursuant to Floor Procedure Advices are reviewable pursuant to PHLX Rule 970. *See* PHLX Rule 124(c).

(or his or her designee) within 15 minutes from the time the contested ruling was rendered.[17] The Commission believes that these provisions will facilitate the prompt resolution of trading disputes while providing members with an adequate opportunity to obtain a ruling from a floor official or to appeal a floor official's ruling. In addition, the Commission notes that these procedures are described in the Advises, which will be readily available to members in the PHLX's Floor Procedure Handbook. Accordingly, the Commission believes that PHLX members will have sufficient notice of the Exchange's procedures for obtaining a ruling from a floor official and appealing a floor official's decision.

Under PHLX Rule 124(d), a review panel, consisting of either three members of the applicable Subcommittee on Rules and Rulings (in the case of options trading) or three members of the Floor Procedure Committee (in the case of equity trading),[18] may sustain, overturn or modify a floor official's ruling. In making its decision, the review panel may consider facts and circumstances not available to the ruling floor official and action taken by the parties in reliance on the floor official's ruling (*e.g.*, cover, hedge, and related trading activity). A member may appeal the review panel's decision to the Exchange's Board of Governors pursuant to PHLX By-law Article XI. The Commission believes that these procedures will provide for prompt and effective review of floor officials' rulings in trading disputes and help to ensure that trading disputes are resolved fairly.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–PHLX–98–03) is approved.

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

[17] According to the PHLX, a ''reasonable period of time'' will depend on market and trading floor conditions (*e.g.*, volume, systems functioning, and quotation updating). Floor officials will determine what constitutes a reasonable period of time for requesting a ruling. The PHLX believes that it is necessary to provide floor officials with flexibility in making this determination. Telephone conversation between Linda S. Christie, Counsel, PHLX, and Yvonne Fraticelli, Attorney, Division, Commission, on April 27, 1998.

[18] If three committee members cannot be convened promptly, the Chairperson of the applicable committee, or his or her designee, may review the ruling. *See* PHLX Rule 124(d).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–12809 Filed 5–13–98; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities; Submissions for OMB Review

This notice lists information collection packages that have been sent to the Office of Management and Budget (OMB) for clearance, in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

Wage Reports and Pension Information—0960–0547. The information obtained through Regulation OR–418P, found in 20 CFR, section 422.122(b), is used by SSA to identify the requester of pension plan information and to confirm that the individual is entitled to the data we provide. The respondents are requesters of pension plan information.

Number of Respondents: 1,211.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 606 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB) Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

(SSA) Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 1-A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Dated: May 8, 1998.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98–12834 Filed 5–13–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 2812]

Determination and Certification Under Section 40A of the Arms Export Control Act

Pursuant to Section 40A of the Arms Export Control Act (Pub. L. 90–629), as added by the Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. 104–132) (22 U.S.C. 2771 *et. seq.*,) and Executive Order 11958, as amended, I hereby determine and certify to the Congress that the following countries are not cooperating fully with United States antiterrorism efforts:

Afghanistan;
Cuba;
Iran;
Iraq;
Libya;
North Korea;
Sudan; and
Syria.

This determination and certification shall be transmitted to the Congress and published in the **Federal Register**.

Dated: May 4, 1998.

Strobe Talbott,

Acting Secretary of State.

[FR Doc. 98–12795 Filed 5–13–98; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF STATE

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 2813]

Government Activities on International Harmonization of Chemical Classification and Labeling Systems; Public Meeting

AGENCY: Bureau of Oceans and International Environmental and Scientific Affairs (OES), Department of State.

ACTION: Notice of a public meeting regarding Government Activities on International Harmonization of Chemical Classification and Labeling Systems.

SUMMARY: This public meeting will provide an update on current activities related to international harmonization since the previous public meeting, conducted January 23, 1998. (See Department of State Public Notice 2708, on page 1987 of the **Federal Register** of January 13, 1998.) The meeting will also offer interested organizations and individuals the opportunity to provide