that the proposed rule change is consistent with Section 6(b)(5) of the Act,[7] because it assigns the responsibility for trade allocation and reporting in an appropriate and reasonable manner. The Phlx seeks in addition to permit a floor broker to delegate his or her responsibility to the specialist in view of the different set of burdens that floor brokers face due to changed economic and technological realities on the Exchange floor. The Commission believes it is reasonable to allow the specialist, who is always in the trading crowd, to assume the responsibility if he or she is willing to do so. The Commission further notes that the proposed rule change would add a provision requiring the allocating party in each trade to record his or her role in a manner that would facilitate investigation of any allocation after the fact should questions arise. The Commission believes that the proposed increases to the fine schedule associated with the trade allocation function and reporting responsibility are reasonable to help ensure compliance with these rules.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–Phlx–2001–28) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10785 Filed 4–30–03; 8:45 am]

BILLING CODE 8010–01–P

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

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47739; File No. SR–Phlx–2001–39]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Allocation of Trades

April 25, 2003.

On March 12, 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 relating to the allocation of trades on the Exchange's options floor.[3] On May 11, 2001, February 19, 2002, May 22, 2002, November 19, 2002, December 16, 2002, and February 25, 2003, Phlx submitted Amendment Nos. 1, 2, 3, 4, 5, and 6 to the proposed rule change, respectively.[4] The proposed rule change, as amended, was published for comment in the **Federal Register** on March 25, 2003.[5] The Commission received no comments on the proposal.

Specifically, the proposed rule change would revise Phlx Rule 1014(g) and Option Floor Procedure Advice B–6 to: (1) Eliminate current exceptions to the Exchange's rule that an order of a ''controlled account'' (any account controlled by or under common control with a broker-dealer) must yield priority to a customer order; (2) establish that specialists and Registered Options Traders (''ROTs'') are entitled to participate only in the portion of an incoming order that remains (''Remainder of the Order'') following the allocation of contracts to customers that are on parity; (3) establish that each Enhanced Specialist Participation granted by the Exchange's rules is applied to the Remainder of the Order, and is a form of entitlement, rather than a mandatory participation;[6] (4) set forth how the Remainder of the Order is to be allocated among all participants on parity, establishing a method that, after applying any Enhanced Specialist Participation, allocates contracts based on the ''stated size'' of each participant,[7] and accommodates smaller stated sizes first when the stated sizes of participants are not equal;[8] (5) set forth the procedures by which a specialist or ROT may waive some or all of the contracts to which he or she is entitled, and how such waived contracts would be allocated; (6) stipulate that a pattern or practice of waiving may be considered conduct inconsistent with just and equitable principles of trade; and (7) state that it would be considered conduct inconsistent with just and equitable principles of trade for a member to enter into any agreement with another member concerning allocation of trades, or to harass, intimidate, or coerce, any member to enter into any waiver or to make or refrain from making any complaint or appeal.

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[9] and, in particular, the requirements of Section 6 of the Act[10] and the rules and regulations thereunder. The Commission believes that the proposed rule change is

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

[2] 17 CFR 240.19b–4.

[3] The proposed rule change was submitted by Phlx pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000, which requires the Exchange (among other respondent options exchanges) to adopt new, or amend existing, rules to make express any practice or procedure ''whereby Market-Makers trading any particular option class determine by agreement the spreads or option prices at which they will trade any option class, or the allocation of orders in that option class.'' 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).

The proposed rule change applies to trades that are not executed through the Exchange's automatic execution system. In addition, the Commission notes that the Exchange has adopted special allocation rules that pertain to its ''ROT Access'' system. *See* Securities Exchange Release Act No. 46763 (November 1, 2002), 67 68898 (November 13, 2002).

[4] *See* letters from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated May 10, 2001 (Amendment No. 1), February 15, 2002 (Amendment No. 2), May 21, 2002 (Amendment No. 3), November 18, 2002 (Amendment No. 4), December 12, 2002 (Amendment No. 5), and February 24, 2003 (Amendment No. 6).

[5] *See* Securities Exchange Act Release No. 47499 (March 13, 2003), 68 FR 14459 (''Notice''). The Notice contains a detailed description of the proposed rule change, the major aspects of which are summarized below.

[6] The Enhanced Specialist Participation programs in the Exchange's rules for certain options classes allocate to the specialist a greater than equal share of the portion of the order that is divided among the specialist and any controlled accounts that are on parity. The percentage awarded to the specialist varies according to the number of controlled accounts on parity. Most of the relevant provisions in Phlx Rule 1014(g) currently state that the specialist is entitled to the applicable percentage, but other provisions do not. *See* Notice.

[7] The proposed rule change would also define how a participant's ''stated size'' is determined. *See* Notice.

[8] As discussed in greater detail in the Notice, the proposed rule change would provide that if all participants' stated sizes were equal, they would receive equal allocations. If all participants' stated sizes were not equal, they would be allocated contracts according to a process whereby, in an initial round of allocation, each participant would receive a number of contracts equal to the stated size of the participant(s) with the smallest stated size (provided that if the sum of such allocations would exceed the number of contracts available, the contracts would be divided equally among all participants). Each participant whose stated size was not filled in the initial round of the process would be allocated in the next round a number of contracts equal to the stated size of the participant(s) with the smallest stated size in that round. The process would continue as necessary until all the contracts are allocated. In any round where the number of contracts remaining does not suffice to allocate the smallest stated size to all participants, or when the stated sizes of all remaining participants are equal, the contracts would be divided equally.

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

[10] 15 U.S.C. 78f.

consistent with Section 6(b)(5) of the Act,[11] because it codifies and clarifies the Exchange's procedures regarding how options trades are to be allocated among crowd participants.

Specifically, the Commission believes that it is reasonable and appropriate to afford priority to customer orders over accounts of broker-dealers. The Commission further believes that it is reasonable and consistent for the Exhange to conform its rules to specify that Enhanced Specialist Participations are entitlements rather than mandatory participations, and to clarify that such entitlements apply only to the Remainder of the Order, after customers have received their allocations. The Commission believes that the proposed rule change sets forth a reasonable method of allocating the Remainder of an Order among the specialist and ROTs, taking into account the Enhanced Specialist Participation, where applicable, and the stated sizes of all participants on parity. Further, the Commission believes that it is reasonable for the Exchange to establish procedures for allocating contracts when a specialist or ROT waives all or part of a trade to which he or she is entitled. The Commission notes, at the same time, that the proposal provides a safeguard against abuse in the waiver process by specifying that a pattern or practice of waiving may be considered conduct inconsistent with just and equitable principles of trade. Finally, the Commission believes that the added prohibitions against agreements among members concerning the allocation of trades, and against members harassing, intimidating, or coercing other members to enter into any waiver, or to make or refrain from making any complaint or appeal, are reasonable and appropriate.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[12], that the proposed rule change (File No. SR–Phlx–2001–39) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10786 Filed 4–30–03; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed Between April 7, and April 18, 2003

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Applications filed during week ending: April 11, 2003.

Docket Number: OST–2003–14887
Date Filed: April 7, 2003
Parties: Members of the International Air Transport Association
Subject:
PTC2 AFR 0134 dated 14 March 2003
TC2 Africa Policy Group Report
PTC2 AFR 0136 dated 18 March 2003
Mail Vote 276—TC2 Within Africa Resolutions
PTC2 AFR Fares 0046 dated 21 March 2003
Intended effective date: 1 May 2003

Docket Number: OST–2003–14902
Date Filed: April 8, 2003
Parties: Members of the International Air Transport Association
Subject:
PTC23 ME–TC3 0172 dated 11 April 2003
Mail Vote 291—Resolution 010f TC23/123 Middle East-South East Asia Special Passenger Amending Resolution from Chinese Taipei
PTC23 AFR–TC3 0198 dated 11 April 2003
Mail Vote 291—Resolution 010f TC23/123 Africa-South East Asia Special Passenger Amending Resolution from Chinese Taipei,
Intended effective date: 15 April 2003

Applications filed during week ending: April 18, 2003.

Docket Number: OST–2003–14957
Date File: April 16, 2003
Parties: Members of the International Air Transport Association
Subject:
PTC2 ME–AFR 0102 dated 25 March 2003
Mail Vote 284—TC2 Middle East-Africa Resolutions
Minutes—PTC2 ME–AFR 0100 dated 11 March 2003
Fares—PTC2 ME–AFR Fares 0057 dated 28 March 2003
Intended effective date: 1 May 2003

Docket Number: OST–2003–14958
Date Filed: April 16, 2003
Parties: Members of the International Air Transport Association
Subject:
PTC123 0231 dated 18 April 2003
Mail Vote 293—Resolution 010g TC123 North/Mid/South Atlantic Special Passenger Amending Resolution from Korea (Rep. of),
Intended effective date: 1 May 2003

Docket Number: OST–2003–14962
Date Filed: April 16, 2003
Parties: Members of the International Air Transport Association
Subject:
PTC123 0232 dated 18 April 2003
Mail Vote 294—Resolution 010i TC123 North Atlantic Special Passenger Amending Resolution from Korea (Rep. of) to USA
Intended effective date: 1 May 2003

Dorothy Y. Beard,

Chief, Docket Operations & Media Management, Federal Register Liaison.

[FR Doc. 03–10696 Filed 4–30–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending April 18, 2003

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2003–14985.
Date Filed: April 18, 2003.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 9, 2003.
Description: Application of Boston-Maine Airways Corp., d/b/a Pan Am Clipper Connection (''BMAC''), pursuant to 49 U.S.C. 41102 and subpart B, requesting issuance of a new certificate of public convenience and necessity, and related fitness determination, authorizing BMAC to engage in foreign scheduled passenger operations utilizing 141-passenger B–727–200 aircraft in various foreign city-pair markets, both in conjunction with