Fact-Sheet-on-Presidential-Memorandum-on-Scientific-Integrity/.

FOR FURTHER INFORMATION CONTACT: For information regarding this Notice, please contact *scientificintegrity@ostp.eop.gov.*

SUPPLEMENTARY INFORMATION: In his March 9, 2009 memorandum on Scientific Integrity, the President states that ''science and the scientific process must inform and guide decisions of my Administration on a wide range of issues'' and assigns the Director of the Office of Science and Technology Policy (the Director) responsibility for ensuring scientific integrity throughout the executive branch. To this end, the memorandum requires the Director to submit within 120 days a set of recommendations for Presidential action to ensure scientific integrity. If possible, for each comment you submit, please note to which of the six principles below your comment relates. This will assist in properly categorizing the public comments and responding to the President's memorandum on Scientific Integrity. The six principles from the memorandum are as follows:

(a) The selection and retention of candidates for science and technology positions in the executive branch should be based on the candidate's knowledge, credentials, experience, and integrity;

(b) Each agency should have appropriate rules and procedures to ensure the integrity of the scientific process within the agency;

(c) When scientific or technological information is considered in policy decisions, the information should be subject to well-established scientific processes, including peer review where appropriate, and each agency should appropriately and accurately reflect that information in complying with and applying relevant statutory standards.

(d) Except for information that is properly restricted from disclosure under procedures established in accordance with statute, regulation, Executive Order, or Presidential Memorandum, each agency should make available to the public the scientific or technological findings or conclusions considered or relied on in policy decisions;

(e) Each agency should have in place procedures to identify and address instances in which the scientific process or the integrity of scientific and technological information may be compromised; and

(f) Each agency should adopt such additional procedures, including any appropriate whistleblower protections, as are necessary to ensure the integrity of scientific and technological information and processes on which the agency relies in its decision-making or otherwise uses or prepares.

Comments from the public will help the OSTP determine what should be included in these recommendations. Respondents are invited to suggest: (1) Recommendations that would be responsive to the aims of the President, (2) specific implementing strategies, and (3) data and empirical evidence related to the effectiveness of strategies to promote scientific integrity. Comments submitted are encouraged to:

- Be as succinct as possible (1000 words or less recommended);
- Specify which of the prior six principles (a–f) are being addressed with each comment;
- Explain views and reasoning clearly; and
- Describe how the success of particular strategies might be evaluated or measured.

M. David Hodge,

Operations Manager, OSTP.

[FR Doc. E9–9307 Filed 4–22–09; 8:45 am]

BILLING CODE 3170–W9–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Act Manufacturing, Inc., Aerovox, Inc. (n/k/a New Bedford Capacitor, Inc.), Agility Capital, Inc., Air Water International Corp. (f/k/a Universal Communications Systems, Inc.), Allegiant Physician Services, Inc., and Alpha Microsystems, Inc. (n/k/a NQL, Inc.); Order of Suspension of Trading

April 21, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Act Manufacturing, Inc. because it has not filed any periodic reports since the period ended September 30, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Aerovox, Inc. (n/k/a New Bedford Capacitor, Inc.) because it has not filed any periodic reports since the period ended March 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Agility Capital, Inc. because it has not filed any periodic reports since the period ended June 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Air Water International Corp. (f/k/a Universal Communications Systems, Inc.) because it has not filed any periodic reports since the period ended June 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Allegiant Physician Services, Inc. because it has not filed any periodic reports since the period ended June 30, 1996.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Alpha Microsystems, Inc. (n/k/a NQL, Inc.) because it has not filed any periodic reports since the period ended September 30, 2001.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on April 21, 2009, through 11:59 p.m. EDT on May 4, 2009.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–9418 Filed 4–21–09; 4:15 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59778; File No. SR–NYSEAmex–2009–12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC To Adopt a Policy Relating to Its Treatment of Trade Reports That It Determines To Be Inconsistent With the Prevailing Market

April 16, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on April 6, 2009, NYSE Amex LLC (''NYSE Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II

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

[2] 17 CFR 240.19b–4.

below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as eligible for immediate effectiveness pursuant to Securities Exchange Act Rule 19b–4(f)(6).[3] The Commission is publishing this notice to solicit comments on the proposal from interested persons.

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

The Exchange proposes to adopt a policy relating to its treatment of trade reports that it determines to be inconsistent with the prevailing market.

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 Exchange 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 Exchange 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

1. Purpose

Trades in listed securities occasionally occur at prices that deviate significantly from prevailing market prices and those trades sometimes establish a high, low or last sale price for a security that does not reflect the true market for the security.

The Consolidated Tape Association (''CTA'') offers each Participant in the CTA Plan the discretion to append an indicator (an ''Aberrant Report Indicator'') to a trade report to indicate that the market believes that the trade price in a trade executed on that market does not accurately reflect the prevailing market for the security. The CTA recommends that data recipients should exclude the price of any trade to which the Aberrant Report Indicator has been appended from any calculation of the high, low and last sale prices for the security.

During the course of surveillance by the Exchange or as a result of notification by another market, listed company or market participant, the Exchange may become aware of trade prices that do not accurately reflect the prevailing market for a security. In such a case, the Exchange proposes to adopt as policies that it:

- May determine to append an Aberrant Report Indicator to any trade report with respect to any trade executed on the Exchange that the Exchange determines to be inconsistent with the prevailing market; and
- Shall discourage vendors and other data recipients from using prices to which the Exchange has appended the Aberrant Report Indicator in any calculation of the high, low or last sale price of a security.

The Exchange will urge vendors to disclose the exclusion from high, low or last sale price data of any aberrant trades excluded from high, low or last sale price information they disseminate and to provide to data users an explanation of the parameters used in the Exchange's aberrant trade policy. Upon initial adoption of the Aberrant Report Indicator, the Exchange will also contact all of its listed companies to explain the aberrant trade policy and will notify users of the information that these are still valid trades. The Exchange will inform the affected listed company each time the Exchange or another market appends the Aberrant Report Indicator to a trade in an NYSE Amex listed stock and will remind the users of the information that these are still valid trades in that they were executed and not unwound as in the case of a clearly erroneous trade.

While the CTA disseminates its own calculations of high, low and last sale prices, vendors and other data recipients—and not the Exchange—frequently determine their own methodology by which they wish to calculate high, low and last sale prices. Therefore, the Exchange shall endeavor to explain to those vendors and other data recipients the deleterious effects that can result from including in the calculations a trade to which the Aberrant Report Indicator has been appended.

In making the determination to append the Aberrant Report Indicator, the Exchange shall consider all factors related to a trade, including, but not limited to, the following:

- Material news released for the security;
- Suspicious trading activity;
- System malfunctions or disruptions;
- Locked or crossed markets;
- A recent trading halt or resumption of trading in the security;
- Whether the security is in its initial public offering;
- Volume and volatility for the security;
- Whether the trade price represents a 52-week high or low for the security;
- Whether the trade price deviates significantly from recent trading patterns in the security;
- Whether the trade price reflects a stock-split, reorganization or other corporate action;
- The validity of consolidated tape trades and quotes in comparison to national best bids and offers; and
- The general volatility of market conditions.

In addition, the Exchange proposes that its policy shall be to consult with other markets (in the case of executions that take place across multiple markets) and to seek a consensus as to whether the trade price is consistent with the prevailing market for the security.

In determining whether trade prices are inconsistent with the prevailing market, the Exchange proposes that Exchange policy shall be to follow the following general guidelines: The Exchange will determine whether a trade price does not reflect the prevailing market for a security if the trade occurs during regular trading hours (*i.e.*, 9:30 a.m. to 4 p.m.) and occurs at a price that deviates from the ''Reference Price'' by an amount that meets or exceeds the following thresholds:

Trade price	Numerical threshold
Between $0 and $15.00	Seven percent.
Between $15.01 and $50.00	Five percent.
In excess of $50.00	Three percent.

The ''Reference Price'' refers to (a) if the primary market for the security is open at the time of the trade, the national best bid or offer for the security, or (b) if the primary market for the security is not open at the time of the trade, the first executable quote or print for the security on the primary market after execution of the trade in question. However, if the circumstances suggest that a different Reference Price would be more appropriate, the Exchange will use the different Reference Price. For instance, if the national best bid and offer for the security are so wide apart as to fail to reflect the market for the security, the Exchange might use as the Reference Price a trade price or best bid or offer that was available prior to the trade in question.

If the Exchange determines that a trade price does not reflect the prevailing market for a security and the trade represented the last sale of the security on the Exchange during a trading session, the Exchange may also

[3] 17 CFR 240.19b–4(f)(6).

determine to remove that trade's designation as the last sale. The Exchange may do so either on the day of the trade or at a later date, so as to provide reasonable time for the Exchange to conduct due diligence regarding the trade, including the consideration of input from markets and other market participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6[4] of the Act in general and furthers the objectives of Section 6(b)(5)[5] in particular, in that it is 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]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

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

Pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder,[8] the Exchange has designated this proposal as one that effects a change that: (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

A proposed rule change filed under 19b–4(f)(6) normally may not become operative for 30 days after the date of filing.[9] However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change to become operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to a proposal previously approved by the Commission.[11] The Commission believes that the Exchange's proposal to append an Aberrant Report Indicator to certain trade reports is a reasonable means to alert investors and others that the Exchange believes that the trade price for a trade executed in its market does not accurately reflect the prevailing market for the security. In addition, the Commission notes that the Exchange will use objective numerical thresholds in determining whether a trade report is eligible to have an Aberrant Trade Indicator appended to it. The Commission further notes that the Exchange's appending the Aberrant Trade Indicator to a trade report has no effect on the validity of the underlying trade. Finally, waiving the 30-day operative delay will allow the Exchange to apply the proposed change to aberrant trades immediately.[12] Based on the above, the Commission designates the proposal to become operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEAmex–2009–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2009–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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

[4] 15 U.S.C. 78f.

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

[6] The Commission notes that, in the filing's purpose section, the Exchange provided a more complete statutory basis for the proposed rule change, as follows:

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Aberrant Report Indicator is consistent with the protection of investors and the public interest in that the Exchange will seek to ensure a proper understanding of the Aberrant Report Indicator among securities market participants by: (i) Urging vendors to disclose the exclusion from high, low or last sale price data of any aberrant trades excluded from high, low or last sale price information they disseminate and to provide to data users an explanation of the parameters used in the Exchange's aberrant trade policy; (ii) informing the affected listed company each time the Exchange or another market appends the Aberrant Report Indicator to a trade in an NYSE Amex listed stock; and (iii) reminding the users of the information that these are still valid trades in that they were executed and not unwound as in the case of a clearly erroneous trade.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] *Id.*

[11] *See* Securities Exchange Act Release No. 58736 (October 6, 2008), 73 FR 60380 (October 10, 2008) (SR–NYSE–2008–91). *See also* Securities Exchange Act Release No. 59151 (December 23, 2008), 74 FR 158 (January 2, 2009) (SR–NASDAQ–2008–100).

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–12 and should be submitted on or before May 14, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–9240 Filed 4–22–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59779; File No. SR–Phlx–2009–32]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing of Amendment No. 1 to Proposed Rule Change Relating to the Exchange's Enhanced Electronic Trading Platform for Options, Phlx XL II

April 16, 2009.

On April 3, 2009, NASDAQ OMX PHLX, 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 implement several enhancements to its electronic options trading system, Phlx XL. The proposed rule change was published for comment in the **Federal Register** on April 14, 2009.[3] Pursuant to Section 19(b)(1) of the Act,[4] and Rule 19b–4 thereunder,[5] notice is hereby given that on April 15, 2009, Phlx filed with the Commission Amendment No. 1 to the proposed rule change as described in Item I below. The Commission is publishing this notice of Amendment No. 1 to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of Amendment No. 1 to the Proposed Rule Change

The Exchange is filing Amendment No. 1 to clarify and correct discrete portions of File No. SR–Phlx–2009–32, which proposes to implement several enhancements to its electronic options trading system, Phlx XL, with the enhanced system to be named Phlx XL II. The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

Changes to the ''Purpose'' Section of the Previously Submitted Form 19b–4

References to ''page numbers'' mean the page numbers in the previously submitted Form 19b–4 for SR–Phlx–2009–32. In addition to the proposed changes below, the Exchange proposes conforming changes to the previously submitted *Exhibit 1* to SR–Phlx–2009–32.

1. Delete from footnote 3 the Federal Register citation to ''44612'' and replace it with ''46612.''

2. Add a closing parenthesis to footnote 6 after the phrase, ''the ''Linkage Plan,''.''

3. Delete the following phrase from the third sentence of the first full paragraph on page 12:

''a number of contracts with a size equal to the size of the interest at other markets at prices better than interest on the Exchange,''

Replace the deleted phrase with the following:

''all marketable contracts on the Exchange to such better priced away markets,''

4. Delete the following phrase from the first sentence of the first full paragraph on page 15:

''conduct a Provisional Opening''

Replace the deleted phrase with the following:

''open as many contracts as possible''

5. Delete the final sentence of the first full paragraph on page 15 which states:

''The Exchange opening price will always be equal to or better than the OQR.''

6. Delete the following sentence from footnote 39:

''The duration of the brief period will be published in an Options Trader Alert, which will be available on the Exchange's web site.''

This is consistent with footnote 65. The brief period is not on a timer.

7. Add the following at the end of footnote 44 on page 20:

''All references to a ''Quote Exhaust Timer'' in the Phlx XL II system and in the proposed rules mean a system pause for a brief period. Phlx XL II participants will not receive any notification that a Quote Exhaust Timer has been initiated.''

8. In the seventh line of the second paragraph on page 24, delete ''B'' in parentheses and replace it with ''E'' in parentheses and delete the ''C'' in parentheses and replace it with ''F'' in parentheses.

9. Delete the following sentences from Page 30 under Example II ''After the Quote Exhaust Timer'':

''The initiating order buys 20 contracts from Market Maker 1 at 2.70 and the Phlx XL II system will contemporaneously route the unexecuted balance of the initiating order to the away market, 10 to buy at 2.70. This should result in a buy of 10 contracts at 2.65 on the away market.

The disseminated PBBO is 2.20 bid, 2.70 offer, with a size of 20x5''

Replace the deleted sentences with the following:

''The initiating order has 30 unexecuted contracts to buy. The Phlx XL II system will route 10 contracts to buy at 2.65 to the ABBO market, which is the best available price and size. The remaining balance is posted in the PBBO at the ABBO price.

The disseminated PBBO is 2.65 bid, 2.70 offer, with a size of 20x25.''

10. Delete the following phrase from the second sentence of the last paragraph on page 34 (and continuing to page 35):

''a number of contracts that will satisfy interest at''

Replace the deleted phrase with the following:

''all marketable contracts on the Exchange to''

11. Delete the following phrase from the second sentence of the first full paragraph on page 35:

''a number of contracts that will satisfy interest at other markets at prices better than''

Replace the deleted phrase with the following:

''any remaining contracts to away markets at''

12. Delete the word ''or'' from the third line of the first full paragraph on page 38, and replace it with the phrase ''if the Exchange Auction Price is no more than''

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[13] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 59721 (April 7, 2009), 74 FR 17245 (April 14, 2009).

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.