

problems. For example, if a same-day-settling start leg fails to settle, GSCC will be aware that the deliver and receive obligations must be carried into GSCC for settlement. GSCC will not have or will not assume any responsibility for the settlement of a same-day-settling start leg other than same-day-settling legs that are converted into forward settling start legs.

## II. Comment Letters

The Commission received five letters from commenters in favor of GSCC's proposed rule change.<sup>13</sup> The three IDB commenters believe that being excluded from the repo netting process puts them at a disadvantage as market participants.<sup>14</sup> Three commenters believe that the proposal will increase liquidity in the repo market.<sup>15</sup> Three commenters believe that allowing IDBs to participate in repo netting will bring enhanced risk protection and a more efficient settlement process to a broader scope of repo transactions.<sup>16</sup>

One commenter opposed the proposed rule change.<sup>17</sup> This commenter believes that allowing IDBs to assume the role of principal in repo transactions introduces an element of credit and performance risk to the repo marketplace. The commenter is concerned that IDBs, which are traditionally agents, do not have the requisite experience to act as repo counterparties. The commenter also is concerned that IDBs could have exposure over several days resulting from a dealer's failure to meet its settlement obligations.

GSCC responded to this commenter stating that there will be no significant risks with the participation of IDBs in repo netting because GSCC will accept only data on repo transactions that have been executed between dealer netting members eligible to participate in GSCC's repo netting service.<sup>18</sup> Thus, absent error, GSCC believes that IDBs should net out in every case. Furthermore, GSCC noted that in addition to certain financial requirements, GSCC will impose significant operational requirements on participating IDBs to ensure that if data submission errors do occur, they will be

corrected promptly.<sup>19</sup> GSCC also stated that there is no possibility of multiday exposure by a participating dealer member to an IDB because if a dealer counterparty on the short side fails on trade date to deliver securities to its IDB counterparty in settlement of the start leg but is still a GSCC member, the start leg will be treated as a forward settling start leg that will be guaranteed and settled by GSCC.

## III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).<sup>20</sup> Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes GSCC's rule change meets these goals because the introduction of IDBs to the repo netting system continues the process whereby GSCC provides the benefits of centralized automated settlement to a broader segment of government securities transactions.

The one adverse commenter expressed concern over the credit and performance risks of IDBs as counterparties in repo transactions. The Commission believes that GSCC has in place risk management procedures that adequately address these concerns. For example, GSCC imposes minimum excess net capital or minimum excess liquid capital requirements on IDBs, as applicable, for eligibility in submitting data on repo transactions to GSCC for netting. By only accepting data on repo transactions that have been executed between two dealers that have been designated as eligible to participate in GSCC's repo netting services, GSCC reduces the risks associated with IDBs by assuring that the IDBs' positions at GSCC will generally net out. Furthermore, unless GSCC ceases to act for a dealer participant prior to the

effectiveness of GSCC's guarantee of the close leg on T+1, IDBs' liability is limited to one day's exposure.

The Commission believes that GSCC's operational requirements will minimize potential risks of allowing IDBs to participate in the repo netting service. The Commission also believes that the benefits of the proposed rule change, including more efficient settlement, outweigh any possible risks of allowing IDBs to participate in the repo netting system and promote the prompt and accurate clearance and settlement of securities transactions. Furthermore, the risk management and operational procedures imposed by GSCC on IDB netting members participating in the repo netting service should help to assure the safeguarding of securities and funds in the custody or control of GSCC or for which it is responsible.

## IV. Conclusion

The Commission finds that GSCC's proposal is consistent with the requirements of the Act and particularly with Section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-96-04) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority:<sup>21</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-19569 Filed 7-31-96; 8:45 am]

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[Release No. 34-37479; File No. SR-Phlx-96-25]

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Adoption of Automatic Double-Up/Double-Down Price Improvement for Eligible PACE Orders

July 25, 1996.

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 July 1, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change and on July 23, 1996, submitted Amendment No. 1 to the proposed rule change,<sup>1</sup> as described in Items I, II, and

<sup>13</sup> *Supra* note 3. Of the five commenters in favor of the proposal, three are IDBs (Liberty, Garvin, and Patriot) and two are broker-dealers (Salomon and Morgan Stanley).

<sup>14</sup> These commenters state that eligibility will allow them to shift to blind brokering of repos, as opposed to brokering on a give-up basis, which they believe is a preferable form of trading.

<sup>15</sup> Salomon, Garvin, and Morgan.

<sup>16</sup> Salomon, Morgan, and Liberty.

<sup>17</sup> Delta Clearing Corp., *supra* note 3.

<sup>18</sup> *Supra* note 5.

<sup>19</sup> As indicated above, these operational requirements include the requirement that an IDB act promptly and in good faith to correct any error in or problem with the data on an eligible repo transaction that it has submitted to GSCC; the assignment of a second GSCC participant number for processing of all repos; and the requirement that each IDB repo netting member establish a separate account with a separate Fedwire address at a clearing bank to be used exclusively for the intraday settlement outside of GSCC of same-day-settling start legs.

<sup>20</sup> 15 U.S.C. § 78q-1(b)(3)(F) (1988).

<sup>21</sup> 17 CFR 200.30-3(a)(12) (1995).

<sup>1</sup> See letter from Gerald D. O'Connell, Senior Vice President, Phlx, to Jennifer Choi, Attorney, Division of Market Regulation, SEC, dated July 19, 1996.

III 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

The Phlx, pursuant to Rule 19b-4 of the Act, proposes to adopt paragraph (c) to Supplementary Material .07 of Rule 229, Philadelphia Stock Exchange Automatic Communication and Execution ("PACE") System. The purpose of the new provision is to automatically provide double-up and double-down price improvement of the minimum variation,<sup>2</sup> usually  $\frac{1}{8}$  point, to PACE market orders in New York Stock Exchange and American Stock Exchange listed securities. PACE is the Exchange's automatic order routing and execution system for securities on the equity trading floor.

Specifically, in any instance where the bid/ask of the PACE quote is wider than the minimum variation, eligible market orders received through PACE shall be provided with double-up/double-down price improvement. For purposes of this provision, double-up/double-down price improvement would be required whenever a double-up or double-down situation occurs with respect to the execution price of a PACE order. More specifically, a double-up/double-down situation occurs whenever an order is guaranteed an execution at the PACE quote resulting in a trade that creates: (i) a plus or minus tick that is two minimum variation ticks (up or down) from the last regular way sale on the primary market; or (ii) a tick that is at least two (up or down) minimum variation ticks from the regular way sale previous to the last regular way sale in the security on the primary market.

Orders eligible for such price improvement must be of a size equal to or less than the established maximum order size, determined as a fixed number of shares for all specialist units by the Floor Procedure Committee ("Committee"). A specialist may determine to provide double-up/double-down price improvement to eligible

orders larger than the size established by the Committee, which is thus a "minimum" size.

Price improvement will be automatically accorded by the PACE system to qualified orders, which will be automatically executed at the improved price. However, in the event that this automatic execution feature of PACE is not functioning and unable to provide an automatic execution, it shall be the responsibility of the specialist to ensure price improvement treatment to eligible PACE orders on a manual basis in accordance with the proposed provisions. In extraordinary circumstances, the Committee Chairman or his designee may grant an exemption from the requirement of double-up/double-down price improvement.<sup>3</sup>

In addition, the Exchange proposes to amend Supplementary Material .05 by titling the provision "Public Order Exposure System" or "POES," as it is known at the Exchange, as well as to reflect a 30 second time period, in lieu of 15 seconds.<sup>4</sup>

The text of the proposed rule change is available at the Exchange 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.

<sup>3</sup> Specifically, the Exchange anticipates that extraordinary circumstances warranting such action will arise when fast market conditions occur where stock prices are not readily discernable over interrogation devices as well as where system malfunctions occur. See Amendment No. 1, *supra* note 1.

<sup>4</sup> According to the Exchange, the POES window was extended from 15 to 30 seconds in December 1995 with the authorization of the Committee. Due to an oversight, the Exchange did not file this change as a proposed rule change with the Commission for approval prior to its implementation. After discovering this error in the course of drafting PACE Rule changes with respect to double-up/double-down price improvement, the Exchange filed this change with the Commission. The Exchange also represents that to date it has not distributed marketing materials reflecting an order exposure window of 30 seconds. See Amendment No. 1, *supra* note 1. The Commission notes that while the Phlx is currently using the 30-second order exposure window, the change from the 15-second to 30-second window is not officially effective until the Commission approves this proposed rule change.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

Generally, Rule 229 governs the PACE system and defines its objectives and parameters. PACE accepts orders for automatic or manual execution in accordance with the provisions of the Rule. Agency orders received through PACE are subject to certain minimum execution parameters, with non-agency orders subject to the provisions of Supplementary Material .02. The PACE Rule establishes execution parameters for orders depending on type (market or limit) and size. The execution of limit orders is governed by Supplementary Material .09 and .10. With respect to market orders, Supplementary Material .05, .06, .07 and .08 apply.

Currently, round-lot market orders up to 500 shares and partial round-lot ("PRL" which combines a round-lot with an odd-lot) market orders up to 599 shares are stopped at the PACE Quote<sup>5</sup> at the time of entry into PACE for 30 seconds to provide the Phlx specialist with the opportunity to effect price improvements when the spread between the PACE quote exceeds  $\frac{1}{8}$  point.<sup>6</sup> This "30 second order exposure window," which is also known as the Public Order Exposure System ("POES"), ensures that stopped orders are automatically executed at the stopped price after 30 seconds. At this time, the Exchange proposes to codify the 30 second time period into Supplementary Material .05, which currently reflects the prior 15 second window. The Exchange believes that extending the window to 30 seconds enables the specialist to better gauge the market and thus, improves the likelihood of price improvement. The Exchange has learned, in its one year of experience with this order exposure window, that additional time for a meaningful opportunity for price improvement to be afforded to such orders is needed. The 30 second window enables the specialist to better locate between-the-market interest and probe other market centers. Of course, a large percentage of orders that are currently POES-eligible will also be eligible for the proposed automatic double-up/double-down price improvement. In such case, as explained

("Amendment No. 1"). Amendment No. 1 clarifies the examples of the double-up/double-down price improvement proposal and certain elements of the proposal. Moreover, Amendment No. 1 provides the history of the 30-second order exposure window proposal. These descriptions and changes are incorporated into Items I, II, and III below.

<sup>2</sup> Pursuant to Rule 125, bids and offers are generally made at a variation of  $\frac{1}{8}$  of one dollar (\$1.00) in stocks. With respect to American Stock Exchange listed stocks trading under \$10, the minimum variation is  $\frac{1}{16}$ .

<sup>5</sup> The PACE Quote consists of the best bid/offer among the American, Boston, Cincinnati, Chicago, New York, Pacific and Philadelphia Stock Exchanges as well as the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES"). See Rule 229.

<sup>6</sup> Securities Exchange Act Release No. 35283 (Jan. 26, 1995), 60 FR 6333 (SR-Phlx-94-58).

below, the order will not be stopped by POES, but will instead be immediately executed at the improved price.

In addition, Supplementary Material .07 states that a member organization may choose to have such an order executed manually at or within the New York high-low range of the day. Pursuant to paragraph (b), orders greater than the sizes stated in Supplementary Material .05 as execution parameters for market orders (round-lots of 600–1,000 shares and PRLs of 601–1099 shares, or such greater size that the specialist agrees to accept) are not subject to the execution parameters of the Rule.<sup>7</sup>

Currently, the PACE market orders, subject to the execution standards explained above, are executable at the PACE Quote, meaning the best bid/offer at the time the order is received by PACE. In certain situations, these orders can be “stopped” at that price by the specialist, meaning that the order is guaranteed to receive at least that price. As explained above, the 30 second order exposure window provides an example of stopping stock in order to seek price improvement. The purpose of stopping an order is to seek a better price for the order, by probing the market further or facilitating the order in its proprietary account at that better price.

At this time, the Exchange proposes to adopt a double-up/down price improvement provision for PACE market orders up to a size determined by the Committee. The Exchange expects to provide the Commission with a fixed size shortly.<sup>8</sup> Thereafter, the Committee will review this threshold as needed, but no less than on a semi-annual basis. The purpose of the proposed provision is to provide automatic price improvement to eligible orders. As part of a continued effort to improve its execution parameters and promote the principle of best execution, the Exchange is proposing to adopt an automatic price improvement provision to apply in double-up and double-down situations.

Under the proposal, “double-up/double-down” is defined as an execution resulting in a trade that creates: (i) a plus or minus tick that is two minimum variation ticks (up or down) from the last regular way sale on the primary market; or (ii) a tick that is at least two (up or down) minimum variation ticks from the regular way sale previous to the last regular way sale in the security on the primary market. For

example, where the PACE quote is  $22\frac{1}{2}-\frac{3}{4}$ , if the last sale was a down tick at  $\frac{5}{8}$ , a double-up/double-down situation would not occur for a market order to buy because buying at  $\frac{3}{4}$  is a single up of  $\frac{1}{8}$ , but would for a sell order because selling at  $\frac{1}{2}$  is a down tick from  $\frac{5}{8}$ , creating a double down tick. Where the market is  $22\frac{1}{4}-\frac{3}{4}$ , with the last sale at  $\frac{1}{2}$ , the provision would apply to a market order to buy or sell because buying at  $\frac{3}{4}$  creates a two-variation up tick (two  $\frac{1}{8}$  ticks from  $\frac{1}{2}$ ) and selling at  $\frac{1}{4}$  creates a two-variation down tick. If, with the market at  $22\frac{3}{8}-\frac{5}{8}$ , the last sale was at  $\frac{3}{4}$  and the previous sale to that was at  $\frac{1}{2}$ , the provision would apply to a sell order because selling at  $\frac{3}{8}$  creates a two-variation down tick (more than two  $\frac{1}{8}$  ticks from  $\frac{3}{4}$ , but not a buy order because  $\frac{5}{8}$  is not more than  $\frac{1}{8}$  from the last sale of  $\frac{3}{4}$  and is not the second consecutive up or down tick from the previous sale. If, again with the market at  $22\frac{3}{8}-\frac{5}{8}$ , the last sale was at  $\frac{5}{8}$  and the previous sale to that was at  $\frac{1}{2}$ , the provision would apply to a market order to sell because selling at  $\frac{3}{8}$  creates a two-variation down tick (from  $\frac{5}{8}$ ), but not a buy order because buying at  $\frac{5}{8}$  is simply a trade at the last price.

To explain the interaction between the 30 second order exposure window and the proposal at hand, assuming the market is  $15\frac{1}{2}-\frac{3}{4}$  and the sale is  $15\frac{1}{2}$ , an order to buy 500 would be subject to double-up/double-down price improvement because buying at  $\frac{3}{4}$  creates a two variation up tick from  $\frac{1}{2}$  sale. The order would be automatically executed under the proposal at  $15\frac{5}{8}$  (if  $\frac{1}{8}$  is the minimum variation in that security) and no 30 second window would occur. If, on the other hand, the order was to sell 500 shares, double-up/double-down would not apply because selling at  $\frac{1}{2}$  does not create an up or down tick; this order would be POES-eligible such that the 30 second window would apply.

The Exchange is proposing to extend its price improvement initiative to double-up and double-down situations because these are particularly suitable for price improvement. Specifically, when the current market is two ticks away from the last sale price, with this trend continuing, as evidenced by consecutive up or down ticks, it is consistent with the role of the specialist to enter into stabilizing transactions on behalf of public customers. Instead of affording an automatic execution at the PACE quote, the proposal improves on that price. Thus, automatically executed orders continue to receive the important benefits of speedy execution and reporting, while also receiving price

improvement. Heretofore, price improvement was synonymous with delay. Now, price improvement would be automatic for eligible orders. The Exchange notes that the proposal enables specialists to extend this innovative price improvement procedure to larger orders, and that the Committee may change the minimum size as competitive conditions warrant. In summary, the Exchange believes that this automatic price improvement feature adds an expedient benefit to PACE.

## 2. Statutory Basis

As explained above, the Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by providing automatic price improvement to eligible orders and extending the order exposure window to 30 seconds.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate 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 either solicited or received.

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

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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

<sup>7</sup> However, the odd-lot portion of PRLs of 601 or more shares shall be executed at the same price as the round-lot portion, or the last such portion executed.

<sup>8</sup> See Amendment No. 1, *supra* note 1.

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 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Phlx-96-25 and should be submitted by August 22, 1996.

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

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-19531 Filed 7-31-96; 8:45 am]

BILLING CODE 8010-01-M

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Identification of Korea as a Priority Foreign Country in Telecommunications Trade

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of identification.

**SUMMARY:** The Acting United States Trade Representative (USTR) hereby identifies Korea as a priority foreign country under section 1374 of the Omnibus Trade and Competitiveness Act of 1988 (the Act). Upon such designation, the USTR is required to negotiate with the Government of Korea for the purpose of entering into a bilateral trade agreement which addresses specific negotiating objectives set by the USTR. If negotiations are unsuccessful, the USTR is required to take appropriate action to achieve U.S. negotiating objectives.

**DATES:** The identification of Korea as a priority foreign country was made on July 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Sean Murphy (202-395-6813), Office of Asia and Pacific Affairs, or Laura B. Sherman (202-395-3150), Office of the General Counsel, Office of the U.S.

Trade Representative, 600 17th Street, NW., Washington, D.C. 20508.

**SUPPLEMENTARY INFORMATION:** Section 1374 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3103) provides that the USTR may identify countries that maintain barriers that deny U.S. telecommunications products and services mutually advantageous market opportunities. In making identifications, the U.S. Trade Representative must take into account factors such as: (a) the nature and significance of the acts, policies and practices that deny mutually advantageous market opportunities to telecommunications products and services of United States firms; (b) the economic benefits (actual and potential) accruing to foreign firms from open access to the United States market; (c) the potential size of the foreign market for telecommunications products and services of United States firms; (d) the potential to increase U.S. exports of telecommunications products and services, either directly or through the establishment of a beneficial precedent; and (f) measurable progress being made to eliminate the objectionable acts, policies or practices.

In 1989, the U.S. Trade Representative identified Korea as a "priority foreign country" that denied U.S. telecommunications products and services providers "mutually advantageous market opportunities." At that time, many of the specific negotiating objectives were focused on improving access for competitive U.S. telecommunications products and services to Korea Telecom(KT), which was the monopoly telecommunications service provider. In 1992, the United States and Korea concluded a series of agreements that improved access to procurement by KT and addressed concerns relating to the standards-setting process, provision of value-added services and the Korean government's approval of telecommunications equipment. As a result of those agreements, the USTR determined that Korea had met the negotiating objectives set out in 1989. Pursuant to section 1377 of the Act, the USTR has annually reviewed the effectiveness and operation of the telecommunications agreements reached with Korea and entered into subsequent agreements to address problems in implementation of them.

Changes in the Korean telecommunications market since 1992 have created new barriers for U.S. providers of telecommunications goods and services that are not covered by the existing agreements with Korea. KT is

no longer the only service provider as competition by private firms and other government-owned entities is being allowed. Yet Korean Government intervention in procurements by private Korean companies and other practices cited by U.S. telecommunications products and services providers create effective barriers to access to the Korean market. The Korean Government's policies and actions relating to the promotion of domestic manufacturing of high-technology telecommunications products results in additional lost opportunities for U.S. suppliers. At the same time, Korean manufacturers have unrestricted access to the United States market for telecommunications products. Korean limitations on foreign ownership of telecommunications services are more restrictive than those of the United States. Korea firms are taking advantage of this more favorable access to increase their penetration into the U.S. telecommunications goods and services market.

The potential Korean market for telecommunications products and services is significant, particularly with the recent award of cellular and other licenses which is estimated to result in procurements of \$6.5 billion. The total Korean market for telecommunications equipment and services during the 1996-2000 period is estimated at \$100 billion. As U.S. telecommunications products and services are the most competitive in the world, there is tremendous potential to increase U.S. exports to the Korean market. Before deciding to identify Korea as a priority foreign country, the United States held intensive consultations with Korea beginning in March 1996, to achieve improved market access. No progress was made in eliminating Korea's objectionable policies and practices. As a result, to achieve mutually advantageous market opportunities as our respective telecommunications markets have evolved, I have identified Korea as a priority foreign country under Section 1374. Consequently, the United States will seek to negotiate an agreement with Korea that achieves U.S. objectives. If these negotiations are unsuccessful, action will be taken under section 1376(b) of the Act. The United States does not intend to use the full negotiating period provided in the Act to make a determination on next steps if it becomes clear that progress is not being made.

Charlene Barshefsky,

*Acting U.S. Trade Representative.*

[FR Doc. 96-19591 Filed 7-31-96; 8:45 am]

BILLING CODE 3190-01-M