

Such a transaction must contemporaneously hedge an option position resulting from the facilitation of an option or stock-option order originating from off-floor. The Exchange believes that this provision is consistent with the NASD's interpretation regarding hedging activities associated with the facilitation of customer transactions in options, as cited by the Commission in its approval of a similar CBOE provision.⁶ To ensure that the transaction qualifies for the proposed provision, the filing of a written report with the Market Surveillance Department of the Exchange, indicating Floor Official approval, is required. Floor Official approval is intended as a monitoring technique. Similarly, the Phlx believes that the written report should aid surveillance efforts regarding Rule 1072 in general, and, more specifically, the requirements of this proposed provision. Surveillance capabilities should be further enhanced by the requirement that a ROT relying on this provision maintain a copy of the report. Thus, the Phlx believes that this facilitation provision should operate consistently with the purposes of the market maker exemption contained in the Rule. Exempting such hedge transactions should promote facilitation orders in the option marketplace as well as liquidity in the underlying NM security.

M&A Transactions

The Phlx proposes to expand the definition of "exempt hedge transaction" in its market maker exemption to permit short sales in securities involved in a publicly announced M&A with a designated NM security in order to foster liquidity and promote effective hedging. The Exchange notes that the proposed expansion of the market maker exemption must involve a publicly announced M&A.⁷ The Exchange also notes that the NASD provides an exemption from the bid test for risk arbitrageurs who take positions in stocks involved in M&A transactions,⁸ and that the other option exchanges have adopted this change to their respective rules.⁹

⁶ See Securities Exchange Act Release No. 35281, *supra* note 5.

⁷ Once an M&A has been publicly announced, a qualified market maker in one of the two affected securities may immediately register as a qualified market maker in the other security, and thus rely on the market maker exemption in such other security. See NASD Rules, Art. III, Section 48(1)(3)(iii).

⁸ See Securities Exchange Act Release No. 34277, *supra* note 3.

⁹ See Securities Exchange Act Release Nos. 35211 and 36019, *supra* note 5.

As applied to the Phlx specialist, the proposed exemption would apply to short sales of a company that is party to an M&A with a company whose NM security underlies a speciality stock option (or qualified index option). As applied to a Phlx ROT, the exemption would extend to a company that is party to an M&A with a company whose NM security underlies an option designated by such ROT. The Phlx believes that specialists and ROTs may need to hedge option positions with the securities involved in an M&A with the underlying security, whether or not the security of such other company has overlying listed options. This ability to hedge is central to the market making function, and should thereby promote liquidity in the markets for the option as well as both securities.

The Exchange believes that the proposal is consistent with the NASD's bid test rule and addresses the limitations established by the NASD concerning the applicability of the market maker exemption. Specifically, the Phlx believes that the ability to hedge facilitated off-floor option orders constitutes legitimate hedging activity by a ROT with resulting benefits to the marketplace, while restricting the expansion of the exemption to *bona fide*, Exchange-monitored transactions. The Exchange also believes that expanding the definition of exempt hedge transaction to include M&A securities should enable effective hedging in the often-volatile markets surrounding M&A events, which should, in turn, promote liquidity.

For these reasons, the Exchange believes that its proposal 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 principals of trade, prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market as well as to protect investors and the public interest by promoting options trading where an M&A is involved or an off-floor order seeks facilitation, which, in turn, creates a hedging need, thereby promoting liquidity and the essence of the market making function.

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

The Phlx 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

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

Within 35 days of the date of 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 such 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 Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-Phlx-95-69 and should be submitted by February 28, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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¹⁰ 17 CFR 200.30-3(a)(12) (1994).

[Release No. 34-36796; File No. SR-PHLX-95-68]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Exercise Price Intervals for Index Options

January 31, 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 January 2, 1996, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and 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

Currently, paragraph (a) of PHLX Rule 1101A, "Terms of Option Contracts," states that the PHLX shall determine fixed point intervals of exercise prices for index options. Commentary .02 to PHLX Rule 1101A provides that exercise prices for index options shall be \$5.00, except exercise prices in the far-term series of National Over-the-Counter ("XOC") options, Value Line Composite Index ("VLE") options, Big Cap Index options and USTOP 100 Index ("TPX") options shall be \$25.00 unless there is demonstrated customer interest at \$5.00 intervals.¹ Under the proposal, the exercise (strike) price interval for near-term index options generally will be \$5, except: (1) Where the exercise price exceeds \$500, the strike price interval may be \$10; and (2) where the exercise price exceeds \$1,000, the strike price interval may be \$20. For out-of-the-money, far-term (fifth month),² or long-term index option

series (long-term options or "LEAPS"),³ the proposal provides that the exercise price interval generally will be \$25, except: (1) Where the exercise price exceeds \$500, the strike price interval may be \$50; and (2) where the exercise price exceeds \$1,000, the exercise price interval may be \$100. In addition, where the exercise price interval is greater than \$5, the PHLX may list exercise prices at \$5 intervals in response to demonstrated customer interest or a specialist request. The proposal also allows the PHLX to list exercise prices at wider intervals.

The text of the proposed rule change is available at the Office of the Secretary, PHLX, and at the Commission.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

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

The PHLX proposes to amend PHLX Rule 1101A to incorporate new strike (exercise) price intervals for index options. Currently, although PHLX Rule 1101A(a) states that the Exchange shall determine fixed point intervals of exercise prices for index options, the interval is generally \$5,⁴ except in the far-term series of broad-based index options.⁵ The PHLX proposes to widen the exercise price interval for all index options in accordance with a formula which takes into consideration the index value and time until expiration. Specifically, the PHLX proposes to list

the following exercise price intervals for index options:

| Index value | Near-term strikes | 5th month/LEAPS |
|---------------------|-------------------|-----------------|
| 500 or less | \$5 | \$25 |
| 500 to 999 | 10 | 50 |
| 1,000 or more | 20 | 100 |

Where the exercise price interval would be wider than \$5, the Exchange proposes to list (fill-in) exercise prices at \$5 intervals in response to demonstrated customer interest or a specialist request.

The purpose of the proposal is to list index options with exercise prices at wider intervals, which should reduce the number of index option exercise prices listed on the Exchange. First, the PHLX notes that the proposal is intended to incorporate the PHLX's index option exercise price policy into PHLX Rule 1101A. Currently, Exchange Rule 1101A(a) states that the Exchange shall determine fixed point intervals of exercise prices for index options. The proposal will specifically list the interval, depending upon the index value and the time remaining until expiration.

Second, the Exchange proposes to list higher-priced index options (above 500), as well as far-term (fifth month) series and long-term options, at wider intervals in order to reduce the number of exercise prices. The PHLX states that most Exchange index options currently are listed at 5-point intervals. However, the PHLX has observed that in higher-priced indexes, the need does not exist for \$5 exercise price intervals. Similarly, according to the PHLX, in the farthest-month trading as well as with long-term options, \$5 intervals are not necessary. The PHLX notes that the bids and offers in many far-term series often are substantially similar because the volatility levels do not differ significantly.

According to the PHLX, narrower exercise price intervals generally are most useful where there is little volatility and in lower-priced series. For equity options, exercise price intervals widen as the strike price increases.⁶ The PHLX notes that limited trading volume occurs in the far-term series of index options. Thus, the proposed reduction in exercise prices would be concentrated in the series with the least trading interest.

For high-priced or far-term series, where the PHLX proposes to list exercise prices, generally, at intervals of

¹ Commentary .02 states that, for purposes of the commentary, demonstrated customer interest includes institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by a Registered Options Trader ("ROT") with respect to trading for the ROT's own account.

² Under PHLX Rule 1101A(b), the Exchange may list index option series of up to four cycle months and up to three consecutive months. According to the PHLX, most index options currently have five months trading at a given time, consisting of three cycle/quarterly series and two consecutive month series. For example, as of September 1995, the XOC had the following months listed: October, November, December, March, and June.

³ Under PHLX Rule 1101A(b)(iii), the Exchange may list long-term options with up to 60 months until expiration. See Securities Exchange Act Release No. 35616 (April 17, 1995), 60 FR 20135 (April 24, 1995) (order approving File No. SR-PHLX-95-11).

⁴ See e.g., Securities Exchange Act Release No. 35591 (April 11, 1995), 60 FR 19423 (April 18, 1995) (order approving File No. SR-PHLX-95-07) (listing of TPX options). The PHLX notes that, generally, the strike price interval of an index option is listed in the contract specifications for the option.

⁵ See PHLX Rule 1101A, Commentary .02.

⁶ See PHLX Rule 1012, "Series of Options Open for Trading," Commentary .05.

\$25 (or at intervals of \$50 where the exercise price exceeds \$500 or intervals of \$100 where the exercise price exceeds \$1,000), the PHLX proposes to list series at intervals as narrow as \$5 in response to demonstrated customer interest or specialist request. This proposal is similar to existing PHLX Rule 1101A, Commentary .02 which permits the far-term series of broad-based index options to be listed at \$25 intervals, unless customer interest exists for a \$5 interval. For purposes of the proposal, demonstrated customer interest includes institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by an ROT with respect to trading for the ROT's own account. This limitation and definition of customer interest is intended to ensure that only legitimate customer requests lead to the listing of exercise prices at narrower intervals.

Under the proposal, the Exchange may also determine to list exercise prices at wider intervals. The narrowest permissible interval would remain at \$5 under this proposal. The PHLX proposes to delete Commentary .02 from Exchange Rule 1101A because the \$25 interval is incorporated in the proposed first paragraph of PHLX Rule 1101A for all index options.

The Exchange believes that the ability to add \$5 intervals in response to customer interest is important in that specific trading opportunities will not be lost. In fact, the \$25 interval preserves key trading strategies because it often represents a 2½ point index movement, which is similar to a stock trading at \$25 with the option traded at 2½ point exercise price intervals. Although the PHLX believes that reducing the number of exercise prices by widening the interval and incorporating such interval into Exchange rules should be beneficial to the marketplace, the flexibility to list exercise prices at intervals of \$5 or greater is important to respond to the needs of the marketplace. Thus, Exchange Rule 1101A would permit both narrower (not narrower than \$5) and wider exercise price intervals in extraordinary circumstances to permit the PHLX to react to market conditions.

The PHLX states that the effect of the proposal would be to permit \$25 intervals in the fifth month and long-term options for most Exchange index options. However, VLE and TPX options would become subject to wider intervals because the value of those indexes exceeds 500. Specifically, as of January 22, 1996, the value of VLE was 563 and the value of the TPX was 551.

In implementing the wider intervals, the PHLX would begin listing exercise prices at the wider interval following the expiration after Commission approval, only listing the exercise prices required by the proposal. For example, under its current rules, the Exchange would have listed the new fifth month series of options on the PHLX/Keefe Bruyette & Woods Bank Index ("KBW") at \$5 intervals from 335 to 400), totalling 14 exercise prices; under the proposal, the Exchange would list the new fifth month series at \$25 intervals, thereby listing only three additional exercise prices (350, 375, and 400).⁷

At the subsequent quarterly expiration, when new five-month and long-term options are listed, new series would then be listed at the wider intervals. If the proposal is approved and implemented in January, the far-term series (*i.e.*, September) is already listed at existing intervals, which would be delisted if no open interest exists. Complete implementation of the proposal would begin at the next quarterly expiration in March, when the December series are listed. Upon implementation of the proposal, the Exchange will list far-term series at wider intervals until there are less than six months remaining until expiration, when intervening exercise prices will be listed at narrower intervals.⁸

The Exchange believes that listing higher-priced index options, far-term series and long-term options at wider intervals should improve the efficiency of quotation dissemination and speedy pricing by reducing the number of listed exercise prices. As discussed above, the immediate effect on the number of exercise prices is notable. Concomitantly, the effect on Exchange systems is likewise notable, with a reduction in system capacity and usage as well as operational burdens. For instance, exercise prices occupy trading floor screen space and line traffic to outside vendors for dissemination. Further, the role of the specialist in monitoring multitudes of exercise prices should be simplified.

With respect to operational burdens, the Exchange expects that reducing the

number of exercise prices should also reduce the instances of wrap-around symbols.⁹ The use of wrap-around symbols, although common, increases operational burdens, complicates screen displays and potentially confuses investors viewing vendor screens.

The Exchange believes that the proposal is an important contribution to the effort to limit the number of option exercise prices. In recently approving 2½ point exercise prices on a pilot basis for equity options, the Commission cited the need to balance an exchange's desire to accommodate market participation by offering a wide array of investment opportunities and the need to avoid proliferation of option series.¹⁰ The Commission also cited this balance in approving PHLX Rule 1101A, Commentary .02, which permits \$25 intervals in the far-term series of the XOC and VLE, noting that such intervals preserve key trading strategies while limiting the number of outstanding strike prices.¹¹ The PHLX believes that the proposal at hand achieves such a balance by reducing the number of exercise prices and, thus, the associated systems and operational burdens, yet retaining trading strategies and investment opportunities by listing wider intervals at reasonable intervals and permitting the flexibility to widen or narrow such intervals in response to investor requests or market conditions.

For these reasons, the Exchange believes that the proposal 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 protect investors and the public interest by eliminating excessive strike prices, thereby improving quotation dissemination capabilities, while maintaining investors' flexibility to better tailor index option trading to meet their investment objectives.

⁹ A wrap-around occurs when the strike price codes A-T indicating the strike price of an option (from 5 to 100) have been used and additional strike prices require listing the option with a different root symbol. For example, KBW October 310 calls use the symbol "B" to denote 310, but the 410 calls would also have used that symbol. Thus, the October 410 calls are traded under the symbol BKV JB.

¹⁰ See Securities Exchange Act Release No. 35993 (July 19, 1995), 60 FR 38073 (July 25, 1995) (order approving File Nos. SR-PHLX-95-08, SR-Amex-95-12, SR-PSE-95-07, SR-CBOE-95-19, and SR-PSE-95-12).

¹¹ See Securities Exchange Act Release No. 33301 (December 8, 1993), 58 FR 65611 (December 15, 1993) (order approving File No. SR-PHLX-93-06).

⁷ The KBW example applies to fifth month series, rather than fourth month series. Telephone conversation between Edith Hallahan, Special Counsel, Regulatory Services, PHLX, and Yvonne Fraticelli, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on January 24, 1996.

⁸ For example, because each quarter a far-term series with nine months until expiration is listed, after December expiration, a September option is listed. After March expiration, the September option is no longer the far-term series, as a December option is added, so that the intervening strike prices would be added to the December series.

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

The PHLX 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 date of 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 reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such 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 Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 28, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 96-2618 Filed 2-6-96; 8:45 am]
BILLING CODE 8010-01-M

[File No. 1-6083]**Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (Greenman Bros. Inc., Common Stock, \$.10 Par Value)**

February 1, 1996.

Greenman Bros. Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the America Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on November 16, 1995 to withdraw the Security from listing on the Amex and instead, to list the Security on the Nasdaq Stock Market as a Nasdaq National Market security ("NNM").

The decision of the Board followed a thorough study of the matter and was based upon the belief that listing the Security on the NNM will be more beneficial to the Company's stockholders than the present listing on the Amex for the following reasons.

(1) The past six months have marked a rise in the price of and an increased interest in the Security, with the result that several brokerage houses are now actively following the Security; and

(2) The Company has been advised by securities industry professionals that the NNM should provide greater price stability for the Security and afford the Company's stockholders and the public a more stable trading market for the Security, a view with which the Company concurs.

Any interested person may, on or before February 22, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information

submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,
secretary.

[FR Doc. 96-2543 Filed 2-6-96; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 35-26467]**Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")**

February 1, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 26, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Cinergy Corporation, et al. (70-8589)

Cinergy Corporation, a registered holding company ("Cinergy"), Cinergy Service, Inc., Cinergy's wholly owned subsidiary service company, both located at 139 East Fourth Street, Cincinnati, Ohio 45202, and Cinergy Investments, Inc. ("Investments"), Cinergy's wholly owned nonutility subsidiary company, located at 251 North Illinois Street, Suite 1410,

¹² 17 CFR 200.30-3(a)(12) (1995).