

domestic relations order ("QDRO"). The PBGC reviews submitted domestic relations orders to determine whether the order is qualified before paying benefits to an alternate payee.

The PBGC receives many inquiries on the requirements for QDROs. Many domestic relations orders, both in draft and final form, do not meet the applicable requirements. The PBGC works with practitioners on a case-by-case basis to ensure that their orders are amended to meet applicable requirements. This process is time-consuming for practitioners and for the PBGC.

To simplify the process, the PBGC has included model QDROs and accompanying guidance in a booklet, "Divorce Orders & PBGC," that attorneys and other professionals who are preparing QDROs for plans trustee by the PBGC may submit to the PBGC after receiving court approval. These models and the guidance are intended to assist parties by making it easier to comply with ERISA's QDRO requirements in plans trustee by the PBGC.

The requirements for submitting a QDRO are established by statute. The model QDROs and accompanying guidance do not create any additional requirements and will result in a reduction of the statutory burden. The PBGC estimates that it will receive 333 QDROs each year from prospective alternate payees; that the average burden of preparing a QDRO with the assistance of the guidance and model QDROs in PBGC's booklet will be 1/4 hour of the alternate payee's time and \$400 in professional fees if the alternate payee hires an attorney or other professional to prepare the QDRO, or 10 hours of the alternate payee's time if the alternate payee prepares the QDRO without hiring an attorney or other professional; and that the total annual burden will be 156 hours and \$132,000.

The PBGC solicits comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, e.g., permitting electronic submission of responses.

The PBGC has requested that OMB approve this collection on an emergency basis by September 10, 1996 so that model QDROs can be made available to practitioners immediately. Early availability will greatly assist practitioners in preparing proper QDROs for the PBGC, thereby saving parties both time and expense.

Issued at Washington, DC, this 5th day of September 1996.

Martin Slate,

*Executive Director, Pension Benefit Guaranty Corporation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-37629; File No. SR-Phlx-96-33]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Increase in Narrow-Based Index Option Position and Exercise Limits

September 3, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 2, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("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

The Phlx, pursuant to Rule 19b-4 of the Act, proposes to amend Phlx Rules 1001A(b)(1) and 1002A to increase the position and exercise limits for narrow-based index options from 6,000, 9,000, or 12,000 contracts to 9,000, 12,000, or 15,000 contracts.<sup>3</sup>

<sup>1</sup> 15 U.S.C. § 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Position limits impose a ceiling on the number of option contracts which an investor or group of investors acting in concert may hold or write in each class of options on the same side of the market (i.e., aggregating long calls and short puts or long puts and short calls). Exercise limits prohibit an

#### 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 Section 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

According to the Phlx, the purpose of the proposed rule change is to increase narrow-based index option position and exercise limits in order to attract additional trading interest and, thus, promote depth and liquidity and Phlx index options. The Exchange believes that the current limits constrain certain investors from trading index options.

Currently, Phlx Rules 1001A(b)(1) and 1002A establish the following position and exercise limits for narrow-based (industry) index options: (i) 6,000 contracts for an index where a single component stock accounted, on average, for 30% or more of the index value during the 30-day period immediately preceding the Exchange's semi-annual review of narrow-based index option position limits; (ii) 9,000 contracts for an index where a single component stock accounted, on average, for 20% or more of the index value or any five component stocks together accounted, on average, for more than 50% of the index value, but no single component stock in the group accounted, on average, for 30% or more of the index value during the 30-day period immediately preceding the Exchange's semi-annual review of narrow-based index option position limits; and (iii) 12,000 contracts where the conditions required a limit of 6,000 contracts or 9,000 contracts have not occurred. For the reasons presented herein, the Phlx proposes to amend Phlx Rules 1001A(b)(1) and 1002A to increase the position and exercise limits for narrow-based index options from 6,000, 9,000, or 12,000 contracts to 9,000, 12,000, or 15,000 contracts.

investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

The Exchange believes that the proposed increase is appropriate in light of the Exchange's more than ten years experience trading index options. In 1983, the Gold/Silver Index ("XAU") was the first narrow-based index option to be traded on the Phlx, listed with a position limit of 4,000 contracts.<sup>4</sup> Since that time, the Exchange has honed its experience in monitoring and surveilling index options trading by developing and implementing an increasingly sophisticated regulatory program. This program has benefited from technological advances and has matured alongside index options trading. Moreover, the market for index options has also evolved, as more investors are familiar with the product and its uses. This is reflected in the appreciable growth in index options volume not only since 1983 but in most recent years as well.<sup>5</sup>

The Exchange recognizes that the purposes of these limits are to prevent manipulation and to protect against disruption of the markets for both options as well as the underlying securities. The Exchange has considered the effects of increased position limits on the marketplace and believes that concerns regarding manipulation and disruption are adequately addressed by the Phlx's regulatory program. The Phlx continues to monitor the markets for evidence of manipulation or disruption caused by investors with positions at or near current position or exercise limits and the new limits will not diminish the surveillance function in this regard.

Since 1983 and the advent of the XAU, the Exchange has listed several index options. Currently, the Phlx trades options on the following seven narrow-based indexes, with their current position limits noted:

1. Gold/Silver Index ("XAU") 6,000 contracts.
2. Utility Index ("UTY") 12,000 contracts.
3. Phlx/KBW Bank Index ("BKX") 12,000 contracts.
4. Phone Index ("PNX") 6,000 contracts.
5. Semiconductor Index ("SOX") 12,000 contracts.
6. Airline Sector Index ("PLN") 12,000 contracts.
7. Forest/Paper Products ("FPP") 12,000 contracts.

The current levels for narrow-based index options have been in place since

September 1995.<sup>6</sup> Since that time, however, index options have continued to experience heavy and steady volume, with a concomitant increase in open interest. In this light, the Exchange believes that the proposed limits of 9,000, 12,000, or 15,000 contracts should further increase the depth and liquidity of the markets for index options by attracting additional investor interest. The Phlx also believes that higher position limits would further accommodate the hedging needs of Exchange market makers and specialists, who are restricted by current levels.

Further, the Exchange believes that the proposed increases are reasonable. The Phlx states that in prior releases approving increased position limits, the Commission has acknowledged that a gradual, evolutionary approach has been adopted in increasing position and exercise limits. Accordingly, the Phlx proposes a 25% increase in the highest tier (from 12,000 to 15,000 contracts); a 33% increase in the middle tier (from 9,000 to 12,000 contracts); and a 50% increase in the lowest tier (from 6,000 to 9,000 contracts). The Exchange believes that these proposed increases are consistent with the gradual evolution cited by the Commission, as the proposed levels represent reasonable increases which are in line with prior changes.<sup>7</sup>

The Exchange believes that the 1995 changes were so modest (20% or less) that position limit increases are once again needed. Since the 1995 changes were implemented, the Exchange has been requested by its members and customers to again propose an increase in position limits, arguing that these limits hamper their ability to execute investment strategies. In light of the large portfolios common to institutional trading and the large-sized transactions that are required to execute complicated, cross-market strategies, such requests emphasize that institutional hedging needs and trading objectives may exceed current limits. Floor members have also expressed the resulting deleterious effect on index options trading in an exchange environment. Based on such member

and customer requests, the Exchange has also realized that the current position limit levels continue to discourage market participation by large investors and the institutions that compete to facilitate the trading interests of large investors. Accordingly, this proposal aims to accommodate the liquidity and hedging needs of large investors as well as the facilitators of those investors.

In proposing these position and exercise limit increases, the Exchange considered whether alternatives were available to accommodate both members and investors. For instance, an index option hedge exemption was recently implemented by the Exchange. However, the specific requirements of this exemption, including the definition of a hedge, may not be useful for all investors. In addition, the Exchange considered whether flexible index options ("FLEX options"), which are subject to separate, higher position limits, address the needs expressed to the Phlx. In this regard, the Exchange realized that because of certain attributes of FLEX options, such as lack of continuous quoting, this product's utility may be limited to a discrete group of investors. Likewise, the Exchange does not believe that FLEX options trading should foreclose the Exchange's responsibility to embellish upon its listed index options program by revisiting and addressing regulatory restrictions such as position limits.

Concurrent with the proposed increase in position limits, the Exchange is also proposing a corresponding increase to narrow-based index option exercise limits. The Exchange believes that this increase is necessary and appropriate for the same reasons as the rationale cited above for the proposed position limit increases. Furthermore, exercise limits constrict trading strategies by preventing investors from exercising positions larger than the limit within five consecutive business days. The Exchange also notes that most of its index options currently are or will become European-style, exercisable only during a specified period at expiration, such that the manipulation and market disruption concerns associated with large exercises will be limited.<sup>8</sup>

## 2. Statutory Basis

The Exchange believes that its proposal to increase narrow-based index option position and exercise limits is

<sup>4</sup> See Securities Exchange Act Release No. 20437 (December 2, 1983), 48 FR 55229 (December 9, 1993) (File No. SR-Phlx-83-17).

<sup>5</sup> According to the Phlx, index options volume increased 48% (from 998,780 contracts to 1,483,585 contracts) from the period January-June 1995 to January-June 1996.

<sup>6</sup> See Securities Exchange Act Release No. 36194 (September 6, 1995), 60 FR 47637 (September 13, 1995) (F8le No. SR-Phlx-95-16) (increasing position and exercise limits for narrow-based index options to 6,000, 9,000, or 12,000 contracts) ("Securities Exchange Act Release No. 36194").

<sup>7</sup> See, e.g., Securities Exchange Act Release No. 36194, *supra* note 6, where the Phlx's narrow-based position limit changes represented a 9% increase in the lowest tier (from 5,500 to 6,000 contracts); a 20% increase in the middle tier (from 7,500 to 9,000 contracts); and a 14% increase in the highest tier (from 10,500 to 12,000 contracts).

<sup>8</sup> See, e.g., Securities Exchange Act Release No. 37575 (August 15, 1996), 61 FR 43289 (August 21, 1996), (File No. SR-Phlx-96-18) (order approving change in exercise style of Phlx's National Over-the-Counter Index from American-style to European-style).

consistent with Section 6 of the Act in general, and with Section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest. The Exchange also believes that the proposal should remove impediments to and perfect the mechanism of a free and open market by providing market opportunity to investors constricted by current position limit levels. The Phlx believes that by stimulating market participation, and thereby increasing option market depth and liquidity, the proposed rule change should promote just and equitable principles of trade. At the same time, the Phlx believes that the proposed position limits should continue to prevent fraudulent and manipulative acts and practices as well as protect investors and the public interest by limiting the ability to disrupt and manipulate the markets for options as well as the underlying securities.

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

The self-regulatory organization 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 with respect to the proposed rule change.

#### 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 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-96-33 and should be submitted by October 1, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Margaret H. McFarland,

*Deputy Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

**AGENCY:** Department of Transportation (DOT), Office of the Secretary (OST).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 3, 1996 [FR 61, page 34920].

**DATES:** Comments must be submitted on or before October 9, 1996.

**FOR FURTHER INFORMATION CONTACT:** Barbara Davis, U.S. Coast Guard, Office of Information Management, telephone (202) 267-2326.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## SUPPLEMENTARY INFORMATION:

United States Coast Guard

*Title:* Application for Tonnage Measurement of Vessels.

*OMB No.* 2115-0086.

*Affected Public:* Vessel owners.

*Abstract:* The collection of information requires vessel owners to submit application for tonnage measurement to the Coast Guard or an organization delegated by the Coast Guard. Additional information may be required if an owner requests certain tonnage treatment.

*Need:* 46 U.S.C. 14104 requires that before a vessel is documented or recorded under laws of the United States, or where the application of law of the United States to a vessel is determined by its tonnage, the vessel must be measured for tonnage.

*Burden Estimate:* The estimated burden is 44,000 hours annually.

*Title:* Oil and Hazardous Material Pollution Prevention and Safety Records, Equivalent/Alternatives and Exemptions.

*OMB No.* 2115-0096.

*Affected Public:* Operators of vessels and owners of waterfront facilities.

*Abstract:* The collection of information requires the inspection of discharge removal equipment on vessels and requires monitoring, reporting and recordkeeping regarding discharges of oil or hazardous materials by facilities and vessels. The regulated industry has the option of requesting, in writing, either equivalent or alternative procedures, methods or equipment standards in lieu of any requirement or a full or partial exemption of any requirement.

*Need:* Under the Federal Water Pollution Control Act and Executive Order 12777, Coast Guard has the authority to issue regulations to prevent the discharge of oil or hazardous materials from waterfront facilities and vessels.

*Burden Estimate:* The estimated burden is 1,840 hours annually.

*Title:* Records Relation to Citizenship of Personnel on Units Engaged in Outer Continental Shelf (OCS) Activities.

*OMB No.:* 2115-0143.

*Affected Public:* Employers of persons engaged in Outer Continental Shelf activities.

*Abstract:* The collection of information requires employers of vessels and units engaged in exploration and exploitation of offshore resources on the OCS such as gas and oil to ascertain the citizenship of their employees and to maintain records of same.

*Need:* 43 U.S.C. 1356 authorizes the Coast Guard to issue regulations to man