include such valuation in its overall daily assessment of clearing member margin and clearing fund deposits. OCC believes that the par value valuation methodology and the restriction on greater than ten year maturities are overly conservative and are no longer necessary to protect OCC from the risk of collateral value changes. Instead, the proposed rule change will impose new haircut levels on the values of government securities.

Specifically, the rule change proposes that Section 3 of Article VIII of OCC's By-Laws and Rule 604 of OCC's Rules be amended to establish a new schedule of haircuts. Government securities deposited as either clearing fund or margin will be valued at: (1) 99.5% of the current market value for maturities less than one year; (2) 98% of the current market value for maturities between one and five years; (3) 96.5% of the current market value for maturities between five and ten years; and (4) 95% of the current market value for maturities in excess of ten years.

OCC reviewed the haircut policies of other derivative clearing houses and analyzed recent historical volatilites of government securities before assessing the proposed haircut levels. Specifically, OCC collected daily data since 1990 on government securities of various maturities across the yield curve and analyzed this historical volatility in the same manner in which OCC analyzes volatility for the setting of margin intervals within OCC's Theoretical Intermarket Margin System. The proposed haircut levels provided adequate coverage for more than 99% of all days since 1990. In addition, OCC reviewed the extreme volatility in the U.S. government security market that occurred on March 8, 1996, and found that the proposed haircut levels would not have been breached. Finally, OCC compared its proposed haircut levels with those of other derivative clearing organizations and found that the proposed haircut levels are consistent with the haircut policies of those clearing houses and that they provide prudent protection from market volatility.

The proposed rule change is consistent with the purposes and requirements of Section 17A of the Act, as amended.[5] Specifically, OCC believes the proposed rule change promotes the protection of investors by enhancing OCC's ability to safeguard the securities and funds in its possession or subject to its control.

[5] 15 U.S.C. 78q–1 (1988).

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

OCC does not believe that the proposed rule will have an impact or impose a burden on competition.

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

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and none were received.

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

Within thirty-five 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 ninety 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 form the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR–OCC–96–09 and should be submitted by October 3, 1996.

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96–23346 Filed 9–11–96; 8:45 am]

BILLING CODE 8010–01–M

**[Release No. 34–37648; International Series Release No. 1016; File No. SR–PSE–96–23]**

## Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to the Listing and Trading of Equity-Linked Notes

September 5, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 24, 1996, the Pacific Stock Exchange Incorporated (''PSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization (''SRO''). On July 25, 1996, the Exchange submitted Amendment No. 1 to the Commission.[2] On September 4, 1996, the Exchange submitted Amendment No. 2 to the Commission.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change, as amended.

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

The Exchange proposes to amend its listing rules to provide for the listing

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

[2] Amendment No. 1 clarified that the requisite trading volume levels concerning the linked security must occur in the United States. In addition, Amendment No. 1 removed the unnumbered paragraph in proposed PSE Rule 3.1(j)(3)(D)(i) that referenced proposed PSE Rule 3.1(j)(3)(C)(iii)(b)(2) because the language in that paragraph did not take into consideration the provisions contained in proposed PSE Rule 3.1(j)(3)(C)(iii)(b)(3). *See* letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to Anthony P. Pecora, Attorney, Office of Market Supervision, Division of Market Regulation, SEC, dated July 24, 1996.

[3] Amendment No. 2 conforms the definition of ELNs contained in PSE Rule 3.1(b)(16) with the other rules in this proposal concerning ELNs in that the use of American Depositary Receipts (''ADRs'') is limited to sponsored ADRs. *See* letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to Anthony P. Pecora, Attorney, Office of Market Supervision, Division of Market Regulation, SEC, dated September 3, 1996.

and trading of Equity-Linked Notes (''ELNs''). The text of the proposed rule change is available for inspection and copying at the PSE 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 III 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*

1. Purpose

The Exchange is proposing to list for trading Equity-Linked Notes, which are notes that are linked, in whole or in part, to the market performance of common stocks, non-convertible preferred stocks, or sponsored ADRs [4] overlying such equity securities. The proposal states that the Exchange will consider for listing ELNs that meet the Exchange's issuer listing standards, ELN listing standards, minimum standards applicable to linked securities, and limits on the number of ELNs linked to a particular security, as set forth below.

*a. Issuer Listing Standards*

Under the proposal, the issuer of ELNs must be an entity that: (a) Is listed on a national securities exchange or the Nasdaq National Market or is an affiliate of a company listed on a national securities exchange or the Nasdaq National Market; and (b) has a minimum net worth of $150 million. In addition, the market value of an ELN offering, when combined with the market value of all other ELN offerings previously completed by the issuer and currently traded on a national securities exchange or the Nasdaq National Market, may not be greater than 25% of the issuer's net worth at the time of issuance.

*b. ELN Listing Standards*

The proposal states that the issue must have: (a) A minimum public distribution of one million ELNs; (b) a minimum of 400 holders of the ELNs (provided, however, that if the ELN is traded in $1,000 denominations, there is no minimum number of holders); (c) a minimum market value of $4 million; and (d) a term of two to seven years, provided that if the issuer of the underlying security is a non-U.S. company, or if the underlying security is a sponsored ADR, the issue may not have a term of more than three years.

*c. Minimum Standards Applicable to the Linked Security*

The proposed new rules state that the underlying security must have: (a) A market capitalization of at least $3 billion and trading volume in the United States of at least 2.5 million shares in the one-year period preceding the listing of the ELNs; or (b) a market capitalization of at least $1.5 billion and trading volume in the United States of at least 10 million shares in the one-year period preceding the listing of the ELNs; or (c) a market capitalization of at least $500 million and trading volume in the United States of at least 15 million shares in the one-year period preceding the listing of the ELNs.[5]

In addition, the notes must be issued by a company that has a continuous reporting obligation under the Act, as amended, and the security must be listed on a national securities exchange or the Nasdaq National Market and be subject to last sale reporting.

Furthermore, the notes must be issued by either: (a) A U.S. company; or (b) a non-U.S. company [6] (including a company that is traded in the United States through sponsored ADRs) provided that one of the following three criteria is met: First, the Exchange must have a comprehensive surveillance sharing agreement in place with the primary exchange in the country where the linked security is primarily traded (in the case of an ADR, the primary exchange on which the security underlying the ADR is traded).

Second, as an alternative, the combined trading volume of the non-U.S. security (a security issued by a non-U.S. company) and other related non-U.S. securities occurring in the U.S. market and in markets with which the Exchange has in place a comprehensive surveillance sharing agreement must represent (on a share equivalent basis for any ADRs) at least 50% of the combined world-wide trading volume in the non-U.S. security, other related non-U.S. securities, and other classes of common stock related to the non-U.S. security over the six month period preceding the date of listing.

Third, an alternate trading volume test would permit an ELN on a non-U.S. security if: (a) The combined trading volume of the non-U.S. security and other related non-U.S. securities occurring in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in the non-U.S. security and in other related non-U.S. securities over the six-month period preceding the date of listing of the non-U.S. security for an ELN listing; (b) the average daily trading volume for the non-U.S. security in the U.S. markets over the six-month period preceding the date of listing of the non-U.S security for an ELN listing is 100,000 or more shares; and (c) the trading volume for the non-U.S. security in the U.S. market is at least 60,000 shares per day for a majority of the trading days for the six-month period preceding the date of selection of the non-U.S. security for an ELN listing.[7]

In addition, if the underlying security to which the ELN is to be linked is the stock of a non-U.S. company that is traded in the U.S. market as a sponsored

[4] ADR programs may be ''sponsored'' or ''unsponsored.'' A sponsored ADR is established by a single U.S. depository bank at the request, or with the consent, of the foreign issuer of the underlying security.

With a sponsored ADR program, a single depository bank, working closely with the issuer, acts as the central source of information for buyers, sellers, and intermediaries. In addition, the depository generally is required to distribute notices of shareholder meetings and voting instructions to ADR holders, thereby ensuring the ADR holders will be able to exercise voting rights through the depository with respect to the underlying securities.

ELNs may be linked only to sponsored ADRs. Telephone conversation between Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, and Anthony P. Pecora, Attorney, Office of Market Supervision, Division of Market Regulation, SEC (Sept. 3, 1996).

[5] If an issuer proposes to list an offering of ELNs that does not satisfy the market capitalization or trading volume requirements discussed above, the PSE, with the concurrence of the staff to the Commission, may evaluate the trading volume, public float, and market capitalization of that security, as well as other relevant factors, and determine on a case-by-case basis that it is appropriate to list ELNs overlying that security. However, depending on the proposed facts, the Commission may require the PSE to submit a rule filing pursuant to Section 19(b) of the Act that addresses the pertinent regulatory issues. In this regard, the Commission notes that any proposal to list an ELN that is linked to a security with a market capitalization of less than $500 million would raise significant regulatory concerns for which a Section 19(b) rule filing would be required. *See* Securities Exchange Act Release No. 34758 (Sept. 30, 1994), 59 FR 50943 (approving listing of Selected Equity-Linked Debt Securities (''SEEDS'') by the National Association of Securities Dealers, Inc. (''NASD'')).

[6] For the purposes of this rule, a non-U.S. company is any company formed or incorporated outside of the United States.

[7] The Commission notes that volume in foreign markets with which the Exchange has a comprehensive surveillance information sharing agreement in place is not included in these calculations. *See* Securities Exchange Act Release no. 37405 (July 7, 1996), 61 FR 36596, at n.8.

ADR, ordinary shares or otherwise, then the minimum number of holders of the underlying security shall be 2,000.

*d. Limits on the Number of ELNs Linked to a Particular Security*

The proposal provides that the issuance of ELNs relating to any underlying U.S. security may not exceed five percent of the total outstanding shares of such underlying security. In addition, the issuance of ELNs relating to any underlying non-U.S. security or sponsored ADR may not exceed: (a) Two percent of the total shares outstanding worldwide if at least 20 percent of the worldwide trading volume in such security occurs in the U.S. market during the six-month period preceding the date of listing; or (b) three percent of the total shares outstanding worldwide if at least 50 percent of the worldwide trading volume in such security occurs in the U.S. market during the six-month period preceding the date of listing; or (c) five percent of the total shares outstanding worldwide if at least 70 percent of the worldwide trading volume in such security occurs in the U.S. market during the six-month period preceding the date of listing.[8]

In addition, if an issuer proposes to issue ELNs that relate to more than the allowable percentages of the underlying security specified above, then the Exchange, with the concurrence of the staff of the Division of Market Regulation of the SEC, will evaluate the maximum percentage of ELNs that may be issued on a case-by-case basis.[9]

Finally, the proposed rule states that prior to the commencement of trading of particular ELNs listed pursuant to PSE Rule 3.1(j)(3), the Exchange will distribute a circular to its membership providing guidance regarding member firm compliance responsibilities (including suitability recommendations and account approval) when handling transactions in ELNs.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[10] of the Act in general and furthers the objectives of Section 6(b)(5)[11] in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

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

The Exchange believes the proposed rule change will impose no 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*

The Exchange has neither solicited nor received written comments.

III. 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. Also, copies of such filing will be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–96–23 and should be submitted by October 3, 1996.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[12] Specifically, the Commission believes that providing for the listing and trading of ELNs will offer a new and innovative means for investors to participate in the securities markets. In particular, the Commission believes that the availability of ELNs will permit investors to more closely approximate their desired investment objectives through, for example, shifting some of the opportunity for upside gain in return for additional income.[13] Accordingly, for these reasons, as well as for the reasons stated in the Commission's prior approval orders concerning equity-linked debt securities,[14] the Commission finds that the PSE's standards for the listing and

[8] *Id.* at n.9.

[9] As with the market capitalization and trading volume requirements, the Commission notes that the Exchange may be required to submit a rule filing to the Commission pursuant to Section 19(b) of the Act to address regulatory issues raised by any Exchange proposal to list an ELN related to more than the allowable percentages of outstanding shares of the underlying security. *See supra* note 4.

[10] 15 U.S.C. 78f(b).

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

[12] 15 U.S.C. 78f(b)(5).

[13] Pursuant to Section 6(b) of the Act, the Commission must predicate approval of trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment, hedging, or other economic function because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[14] The Commission notes that it previously has approved the listing of equity-linked debt securities by the American Stock Exchange, Inc. (''Amex''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the NASD, the New York Stock Exchange, Inc. (''NYSE''), and the Philadelphia Stock Exchange, Inc. (''Phlx''). *See* Securities Exchange Act Release Nos. 32343 (May 20, 1993), 58 FR 30833 (order originally approving the listing of ELNs by the Amex); 33328 (Dec. 13, 1993), 58 FR 66041 (approving revised market capitalization and trading volume requirements for the listing of ELNs by the Amex); 33468 (Jan. 13, 1994), 59 FR 3387 (order originally approving the listing of Equity-Linked Debt Securities (''ELDS'') by the NYSE); 34545 (Aug. 18, 1994), 59 FR 43877 (order approving the listing of ELDS by the NYSE linked to securities issued by non-U.S. companies); 34549 (Aug. 18, 1994), 59 FR 43873 (order approving the listing of ELNs by the Amex linked to securities issued by non-U.S. companies); 34758 (Sept. 30 1994), 59 50943 (order originally approving the listing of SEEDS by the NASD); 34759 (Sept. 30, 1994), 59 FR 50939 (order originally approving the listing of ELNs by the CBOE); 34765 (Sept. 30, 1994), 59 FR 51220 (approving revised market capitalization and trading volume requirements for the listing of ELNs by the Amex); 34766 (Sept. 30, 1994), 59 FR 51220 (approving revised market capitalization and trading volume requirements for the listing of SEEDS by the NASD); 34985 (Nov. 18, 1994), 59 FR 60860 (order approving alternative market capitalization and trading volume requirements for the listing of ELDS by the NYSE); 35479 (Mar. 13, 1995), 60 FR 14993 (order originally approving the listing of ELNs by the Phlx); 36578 (Dec. 13, 1995), 60 FR 65700 (approving revised market capitalization and trading volume requirements for the listing of ELNs by the Amex); 36990 (Mar. 20, 1996), 61 FR 13545 (approving revised market capitalization and trading volume requirements for the listing of ELNs by the Amex); 36993 (Mar. 20, 1996), 61 FR 13557 (approving revised market capitalization and trading volume requirements for the listing of ELDS by the NYSE); 36994 (Mar. 20, 1996), 61 FR 13553 (approving revised market capitalization and trading volume requirements for the listing of SEEDS by the NASD); 36995 (Mar. 20, 1996), 61 FR 13550 (approving revised market capitalization and trading volume requirements for the listing of ELNs by the CBOE); 37405 (July 3, 1996), 61 FR 36596 (approving revised market capitalization and trading volume requirements for the listing of ELDS by the NYSE) (collectively, ''Equity-Linked Note Approval Orders''). The discussions articulated in the Equity-Linked Note Approval Orders are incorporated herein.

trading of ELNs are consistent with the Act.

As with previously approved ELNs, ELDS, and SEEDS, the ELNs, the PSE is proposing to trade are not leveraged instruments. Their price, however, will be derived and based upon the underlying linked security. Accordingly, the level of risk involved in the purchase and sale of an ELN is similar to the risk involved in the purchase or sale of traditional common stock. Nonetheless, in considering other SROs' respective proposals to list and trade ELNs, ELDS, and SEEDS, the Commission had several specific concerns with this type of product because the final rate of return of an ELN is derivately priced (*i.e.*, based on the performance of the underlying security). The concerns included: (1) Investor protection concerns, (2) dependence on the credit of the issuer of the instrument, (3) systemic concerns regarding position exposure of issuers with partially hedged positions or dynamically hedged positions, and (4) the impact on the market for the underlying linked security.[15] The Commission concluded, however, that the SROs' proposals adequately addressed each of these issues such that the Commission's regulatory concerns were minimized adequately.[16] Similarly, in this proposal, the PSE has proposed safeguards, as described above, that the Commission finds to be equivalent to those approved for the trading of equity-linked debt securities in other markets. In particular, by imposing the listing standards, suitability, disclosure, and compliance requirements noted above, the PSE has adequately addressed the potential public customer concerns that could arise from the hybrid nature of ELNs. Further, the Commission believes that the listing standards and issuance restrictions should help to reduce the likelihood of any adverse market impact on the securities underlying the ELNs.

The Commission finds good cause for approving the amended proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register in order to allow the PSE to begin listing ELNs without delay. As discussed above, the proposal merely provides the PSE with the ability to list equity-linked debt securities on the same basis as other SROs. Moreover, the Commission notes that the prior proposals by other SROs to list and trade equity-linked debt securities were published by the Commission for the full statutory comment period without any comments being received by the Commission. In light of the Commission's approval of the listing and trading equity-linked debt securities by other SROs, accelerating approval of this proposal does not raise any new regulatory issues and will allow the PSE to compete on an equal basis with other markets with regard to these equity-linked products.[17] Therefore, the Commission there is good cause to grant accelerated approval to the proposed rule change, as amended, consistent with Section 6(b)(5) and Section 19(b)(2) of the Act.[18]

V. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–PSE–96–23), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96–23308 Filed 9–11–96; 8:45 am]

**BILLING CODE 8010–01–M**

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**[Release No. 34–37635; File No. SR–Phlx–96–19]**

## Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change by the Philadelphia Stock Exchange, Inc., To Establish a Firm Facilitation Exemption

September 4, 1996.

I. Introduction

On June 3, 1996, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') submitted to 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 establish a firm facilitation exemption[3] for all non-multiply-listed Exchange options by adding new Commentary .08 to Exchange Rule 1001 and new Commentary .02 to Exchange Rule 1001A. The exemption would be available to equity and index options, including customized options.[4]

The proposed rule change appeared in the Federal Register on July 10, 1996.[5] No comments were received on the proposed rule change. The Phlx subsequently filed Amendment No. 1 to the proposed rule change on July 26, 1996.[6] This order approves the Phlx's proposal.

II. Background and Description

The Phlx is proposing to establish a firm facilitation exemption for all non-multiply-listed Exchange options. Under the proposal, the procedures in Exchange Rule 1064(b) for crossing a customer order with a firm facilitation order must be followed. Moreover, only after all market participants in the trading crowd have been given a reasonable opportunity to accept the terms, may the representing Floor Broker cross all or any remaining part of such order in accordance with the rule. According to the Phlx, the purpose of this procedure is to ensure that the trading crowd cannot first facilitate the order before resorting to a position limit exemption for the facilitating firm. Thus, only after it is determined that the trading crowd will not fill the order may the firm's customer order be crossed with the firm's facilitation order pursuant to the exemption.

The Phlx notes that the firm facilitation provision will be in addition to and separate from the standard limit, as well as other exemptions available under Exchange position limit rules. For example, if a member organization decides to facilitate customer orders in

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[15] *See* Equity-Linked Note Approval Orders, *supra* note 14.

[16] *See* Equity-Linked Note Approval Orders, *supra* note 14.

[17] *See* Equity-Lined Note Approval Orders, *supra* note 14.

[18] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 C.F.R. 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that a facilitation trade is defined as a transaction that involves crossing an order of a member firm's public customer with an order for the member firm's proprietary account.

[4] *See* Securities Exchange Act Release No. 37048 (March 29, 1996), 61 FR 15549 (April 8, 1996) (File No. SR–Phlx–96–08).

[5] *See* Securities Exchange Act Release No. 37398 (July 2, 1996), 61 FR 36410 (July 10, 1996).

[6] In Amendment No.1, the Phlx amended its proposed rule filing to: (1) require that a member organization submit to the Exchange's Market Surveillance Department appropriate forms substantiating the basis for the exemption within two business days or the time specified by the Exchange when approval is granted on the basis of verbal representations; (2) clarify that the proposal does not apply to multiply-listed options; (3) add language prohibiting the use of the exemption with respect to ''all or none'' or ''fill or kill'' orders; and (4) state that violations of the exemptive requirements, absent reasonable justification or excuse, shall result, in addition to any disciplinary action, in the withdrawal of the exemption, and may form the basis for subsequent denial of an application for an exemption under this rule. *See* letter from Gerald D. O'Connell, Senior Vice President, Market Regulation and Trading Operations, Phlx, to Matthew Morris, Office of Market Supervision, Division of Market Regulation, Commission, dated July 26, 1996 (''Amendment No. 1'').