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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder.[6] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PSE–96–38 and should be submitted by November 22, 1996.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–28076 Filed 10–31–96; 8:45 am]

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[6] 15 U.S.C. 78s(b)(3)(A) and 17 CFR 19b–4(e).

[Release No. 34–37869; File No. SR–PTC–96–04]

Self-Regulatory Organizations; Participants Trust Company; Order Approving a Proposed Rule Change Relating to the Elimination of Prefunding Requirements for Intraday Free Retransfers

October 25, 1996.

On July 2, 1996, the Participants Trust Company (''PTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–PTC–96–04) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] to eliminate prefunding requirements for intraday free retransfers. Notice of the proposal was published in the Federal Register on August 12, 1996.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change amends PTC's rules to eliminate the requirement that participants must have cash on deposit (''optional deposits'') with PTC equal to the original contract value for securities that are received the same day versus payment prior to making an intraday free redelivery of such securities. These optional deposits are commonly referred to as ''prefundings.''

The requirement that participants prefund intraday free redeliveries was added to PTC's rules by PTC's predecessor, MBS Clearing Corporation (''MBSCC'').[3] The purpose of the prefunding requirement was to support the original deliverer's security interest (''DSI'') and the default provisions which permitted PTC to reverse (*i.e.*, unwind) securities deliveries to achieve settlement, both of which were added to PTC's rules at the same time.[4] Both the DSI and the unwind procedures subsequently have been eliminated from PTC's rules and have been replaced with the participant's intraday collateral lien (''PICL'').[5]

The PICL, which can be exercised only if PTC is insolvent and fails to achieve settlement, is granted to those participants with a net credit balance owed to them by PTC. Participants with a net credit balance have a pro rata interest in a common pool of collateral that consists of securities held in transfer accounts (*i.e.*, intraday deliveries versus payment) for which settlement has not yet occurred, payments made by participants to satisfy net debit balances owed to PTC, and prefunding payments made to support intraday free redeliveries of securities from transfer accounts.

Prefunding intraday free redeliveries can impose a substantial burden on participants. For example, if a participant receives a security in a transaction versus payment through PTC and thereafter redelivers it free, such participant usually will be receiving payment for the free redelivery outside of PTC. Although the participant must have sufficient Net Free Equity (''NFE'') [6] for PTC to process the transaction, the participant may not have the cash available until after the funds are received from the party receiving the free redelivery outside of PTC. In addition, the participant may be in a net credit position at PTC when cash prefunding is required as a result of other transactions which are processed through its account.

II. Discussion

Section 17A(b)(3)(F) [7] of the Act requires that the rules of a clearing

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 37523 (August 5, 1996), 61 FR 41816.

[3] In 1988, MBSCC proposed a rule change to require its participants to prefund intraday free transfers. Securities Exchange Act Release No. 26101 (September 22, 1988), 53 FR 37895 [File No. SR–MBS–88–14] (notice of filing of proposed rule change). Subsequently, the order granting PTC's registration as a clearing agency incorporated the proposed rule change stating that PTC's rules were essentially identical to MBSCC's rules including the most recently proposed rule changes. Securities Exchange Act Release No. 26671 (March 31, 1989), 54 FR 13266, [File No. 600–25] (order granting registration as a clearing agency and statement of reasons).

[4] PTC's rules originally provided that securities delivered versus payment (*i.e.*, held in a participant's transfer account) were held by PTC pending settlement subject to the DSI granted to the original delivering participant. If securities were thereafter redelivered free from a transfer account, the secured party would lose its collateral unless prefunding served as proceeds of that collateral. Accordingly, participants that made a free delivery of securities subject to a DSI were required to have cash at least equal to the original contract value of the securities in the form of an optional deposit to the participants fund.

[5] For a more complete discussion of PTC's reasons for removing the DSI and the unwind procedures, refer to Securities Exchange Act Release No. 34701 (September 22, 1994), 59 FR 49730 [File No. SR–PTC–94–03] (order approving proposed rule change).

[6] NFE for a participant's account consists of, among other things, the cash balances in the participant's account, the market value of securities, net of applicable margin in the participant's account or associated transfer account, a portion of the participant's mandatory deposit to the participants fund, and the participant's optional deposits to the participants fund including prefunding. Additional components of NFE not relevant to this analysis include reserve on gain, which operates to reduce NFE in certain transactions, and excess proprietary NFE, a component of supplemental processing collateral.

[7] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

agency be designed 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 that PTC's proposed rule change is consistent with PTC's obligations under the Section 17A of the Act. Each transaction processed through the PTC system, including both deliveries versus payment and free redeliveries, is tested to ensure that both the delivering and receiving participant's accounts will not have negative NFE after giving effect to the transaction. PTC's NFE controls will block any free redelivery where the deduction of the securities from the account of the delivering participant will cause its NFE to be negative thereby reducing the risk that the amount of collateral available with respect to a participant's account is not sufficient to cover the participant's debit balance. The elimination of cash prefunding will not diminish PTC's NFE controls. In addition, the elimination of cash prefunding will release collateral previously required by PTC which should increase participants' liquidity while PTC should not incur any additional risks by such release.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act 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–PTC–96–04) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

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[8] 17 CFR 200.30–3(a)(12) (1996).

[Release No. 34–37863; File No. SR–Phlx–96–33]

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

October 24, 1996.

I. Introduction

On August 2, 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 amend Exchange 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.

The proposed rule change appeared in the Federal Register on September 10, 1996.[3] No comments were received on the proposed rule change. This order approves the Phlx's proposal.

II. Background and Description

According to the Phlx, the purpose of the proposed rule change is to increase narrow-based index option position and exercise limits[4] in order to attract additional trading interest and, thus, promote depth and liquidity in Phlx index options. The Exchange believes that the current limits constrain certain investors from trading index options.

Currently, Exchange 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 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 requiring a limit of 6,000 contracts or 9,000 contracts have not occurred. The Phlx proposes to amend Exchange 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.[5]

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.[6] 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 benefitted 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 more recent years as well.[7]

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.

The current levels for narrow-based index options have been in place since September 1995.[8] Since that time, however, index options have continued

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 37629 (September 3, 1996), 61 FR 47775 (September 10, 1996).

[4] 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 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.

[5] 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; and (7) Forest/Paper Products (''FPP'') 12,000 contracts.

[6] *See* Securities Exchange Act Release No. 20437 (December 2, 1983), 48 FR 55229 (December 9, 1983) (File No. SR–Phlx–83–17).

[7] 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.

[8] *See* Securities Exchange Act Release No. 36194 (September 6, 1995), 60 FR 47637 (September 13, 1995) (File 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'').