

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, 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of the Pacific Exchange. All submissions should refer to File No. SR-PCX-97-17 and should be submitted by June 26, 1997.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38701; File No. SR-PHLX-97-13]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice and Order Granting Accelerated Approval to Amendment Nos. 1 and 2 to Proposed Rule Change Amending the Exchange's Rule Concerning the Pre-Opening Application of the Intermarket Trading System

May 30, 1997.

I. Introduction

On March 19, 1997, 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 Phlx Rule 2001, Intermarket Trading System ("ITS"), to enhance the operation of the Pre-Opening Application by effectively including circuit breakers as a trading halt situation that will trigger the Pre-Opening Application. The proposed rule change will also reorganize and update Rule 2001 to make it conform more closely to the Pre-Opening Application rules of other exchanges and to the model Pre-Opening Application Rule attached as Exhibit A to the ITS Plan.

Notice of the proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 38507 (April 14, 1997), 62 FR 193883 (April 21, 1997).³ No comments were received on the proposal. Phlx subsequently filed Amendment Nos. 1 and 2, on May 27, 1997 and May 29, 1997, respectively.⁴

II. Description

The purpose of the proposed rule change is to enhance the operation of the Pre-Opening Application under PHLX's Rule 2001. Rule 2001 contains basic definitions pertaining to ITS, prescribes the types of transactions that may be effected through ITS and the pricing of commitments to trade, and specifies the procedures pertaining to the operation of the Pre-Opening Application, whereby an Exchange specialist who wishes to open a market in an ITS stock may obtain any pre-opening interest in that stock by other market-makers registered in that stock in other Participant markets.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission notes that a joint order approving the ITS Pre-Opening Application rule proposals for the other eight ITS Participants is being issued on the same day as this approval order, as well as an order approving similar changes to the ITS Plan itself. See Securities Exchange Act Release Nos. 38700 (May 30, 1997) and 38699 (May 30, 1997) (ITS Plan Amendment Approval Order).

⁴ Amendment No. 1 amends Rule 2001 to add subparagraph (c)(ii)(B), titled "Pre-Opening Responses for Open Markets" and sub-paragraph (d)(ii) titled "Responses When the Exchange is Open" and rennumbers the remaining sub-paragraphs. Amendment No. 1 also places sub-paragraph headings in bold print and amends sub-paragraph (d)(vii), "Request for Participation Report," to reflect a T+3 time frame; instead of a T+1 time frame. Amendment No. 2 further amends the new sub-paragraph (c)(ii)(B) by adding additional language, and by adding the word "third" to sub-paragraph (d)(vii) to reflect the change to a T+3 time frame. See letters from Philip H. Becker, Senior Vice President, Chief Regulatory Officer, Phlx, to Heather Seidel, Attorney, Market Regulation, Commission, dated May 23, 1997 ("Amendment No. 1") and May 29, 1997 ("Amendment No. 2") respectively.

PHLX's current Pre-Opening Application prescribes that if an Exchange specialist anticipates that the opening transaction on the Exchange will be at a price that represents a change from the security's previous day's consolidated closing price of more than the "applicable price change," the Exchange specialist shall notify other Participant markets by sending a pre-opening notification through ITS. The "applicable price changes" in current Rule 2001 are:

Consolidated closing price ⁵	Applicable price change (more than)
Network A: ⁶	
Under \$15	1/8 point.
\$15 or over	1/4 point.
Network B:	
Under \$5 or over	1/8 point.
	1/4 point.

Thereafter, the Exchange specialist shall not open the market in the security until not less than three minutes after the transmission of the pre-opening notification. Once an Exchange specialist has issued a pre-opening notification, other Participant markets may transmit "pre-opening responses" to the Exchange specialist through ITS that contain "obligations to trade." The Exchange specialist is then obligated to combine these obligations with orders it already holds in the security, and, on the basis of this aggregated information, decide upon the opening transaction in the security.

PHLX's current Rule 2001(c)(ii) states that the Pre-Opening Application also applies whenever the specialist wishes to resume trading on the Exchange in any Eligible Listed security following the initiation of a "Regulatory Halt" by any Participant that is an exchange if both trading has been halted in all exchange markets and, when the relevant security is also eligible for trading through the interface between the ITS and the NASD's Computer Assisted Execution System ("CAES"), the NASD has suspended quotations in the relevant security. Pursuant to current Rule 2001(c)(ii), the Pre-Opening Application does not apply

⁵ If the previous day's closing price of an eligible listed security exceeded \$100 and the security does not underlie an individual stock option contract listed and currently trading on an exchange, the "applicable price change" is one point.

⁶ Network A is comprised of New York Stock Exchange ("NYSE") securities; Network B is comprised of securities admitted on the American Stock Exchange, the Boston Stock Exchange, the Chicago Board Options Exchange, the Chicago Stock Exchange, the Cincinnati Stock Exchange, the Pacific Exchange, PHLX, or any other exchange, but not also admitted to dealings on the NYSE.

⁸ 17 CFR 200.30-3(a)(12).

when trading on the Exchange is resumed following the initiation of a Regulatory Halt if either (1) Trading has not been halted in all exchange markets or, when the relevant security is also eligible for trading through the interface between the ITs and CAES, the NASD has not suspended quotations in the affected security or (2) following any other type of halt in trading on the Exchange for any reason. When the Pre-Opening Application applies under Rule 2001(c)(ii), the Exchange specialist must send a pre-opening notification through ITS.

The purpose of the proposal is to amend PHLX's Rule 2001 to provide that the Pre-Opening Application would be triggered whenever any "indication of interest" (i.e., an anticipated opening price range) is sent to the Consolidated Tape System prior to the opening or reopening of trading in the relevant security. Under the proposed change, the Pre-Opening Application would be triggered when indications of interest are disseminated in situations other than those defined in Rule 2001(c)(ii), "Applicability Following Regulatory Halts," including the resumption of trading following the activation of market-wide circuit breakers.

In particular, the proposal would amend Rule 2001(b)(7) to provide that the Pre-Opening Application applies (i) "whenever a market maker in any Participant market, in arranging an opening transaction in that market in a System security, anticipates that the opening transaction will be at a price that represents a change from the security's 'previous day's closing price' at more than the 'applicable price range'" and (ii) "whenever an 'indication of interest' (an anticipated opening price range) is sent to the CTA Plan Processor as required or permitted by the CTA Plan or a Participant market's rules."⁷ The proposed rule change also deletes current Rule 2001(c)(x), "Tape Indications," replaces it with the exact language of the ITS Plan model Pre-Opening Application rule pertaining to tape indications, and renumbers the section as Rule 2001(c)(i)(B). The proposed rule change would replace all references to "Trading Halt" with "halt or suspension in trading" and delete current Rule 2001(c)(ii), "Applicability Following Regulatory Halts," because it would be inconsistent with the new language "halt or suspension in trading." As a result, one standard procedure would

then govern all trading halt situations and would include suspensions of trading pursuant to circuit breaker halts.⁸

In addition, the proposed rule change amends Rule 2001(a), which contains the core definitions applicable to ITS, by adding the previously omitted definitions or Network A and Network B eligible securities and renumbering the remaining definitions. The Exchange also proposes to reorganize certain provisions of Rule 2001 to improve its clarity. The proposed rule change reorganizes Rule 2001(c) into subparagraphs (i) Notifications and (ii) Pre-Opening Responses. The proposed rule change further divides proposed Rule 2001(c)(i) into (A) Applicable Price Changes and (B) Tape Indications. The proposed rule change then further subdivides Rule 2001(c)(i)(A) into (1) Initial Notification, (2) Forms of Notification, and (3) Subsequent Notification. The proposed rule change also amends proposed Rule 2001(c)(i)(A)(1) to state that the applicable price changes for Network B securities would be $\frac{1}{8}$ point for consolidated closing prices under \$5 and $\frac{1}{4}$ point for consolidated closing prices of \$5 or over. Finally, the proposed rule change adds "Network A" to the footnote under proposed Rule 2001(c)(i)(A)(1) to state that "[i]f the previous day's consolidated closing price of a Network A Eligible Listed security exceeded \$100 and the security does not underlie an individual stock option contract listed and currently trading on a national securities exchange, the 'applicable price change' is one point."

In addition, Amendment No. 1 adds proposed Rule 2001(c)(ii)(B), "Pre-Opening Responses from Open Markets," and proposed Rule 2001(d)(ii), "Responses When the Exchange is Open." Amendment No. 2 adds additional language to proposed Rule 2001(c)(ii)(B). Amendment Nos. 1 and 2 also amend Rule 2001(d)(vii) to reflect a T+3 time frame.⁹

III. Discussion

The Commission finds that the proposed rule change is consistent with

⁸ The Exchange notes that this amendment to Rule 2001 is being made in conjunction with comparable amendments to the ITS Plan, as well as the rules of the other ITS Participant exchanges, which originate from recent changes to exchange circuit breaker provisions. See SR-BSE-96-11 and Securities Exchange Act Release Nos. 37459 (July 19, 1996) 61 FR 39172 (July 26, 1996) (one-half hour and one hour halts) and 38221 (January 31, 1997) 62 FR 5871 (February 7, 1997) (350 and 550 point thresholds).

⁹ Finally, Amendment No. 1 amends all subparagraph headings to place them in bold print.

the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).¹⁰ Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public, by treating all halts similarly for purposes of ITS.¹²

The Commission finds that the proposed rule change is also consistent with Section 11A(a)(1)(D)¹³ of the Act that states that the linking of all markets for qualified securities through communications and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to the best execution of such orders.

The Commission believes that the portions of the proposed rule change that conform the operation of PHLX's Pre-Opening Applications with regard to trading halts to the amended rules of the other ITS Participants and with the Model Pre-Opening Application rules contained as Exhibit A to the ITS Plan, are consistent with the Act. The Commission finds that this change will facilitate transactions in securities while continuing to further investor protection and the public interest by enhancing the linkage among ITS Participant Markets and promoting coordinated openings and reopenings in ITS securities. The proposed rule change achieves these goals by amending the PHLX's Pre-Opening Application so that one standard procedure governs all trading halt situations, including circuit breaker halts.

PHLX's proposed rule change makes additional substantive proposed changes, which include: adding the previously omitted definitions of Network A and Network B eligible securities and renumbering the remaining definitions; reorganizing certain provisions of Rule 2001 to improve its clarity;¹⁴ amending proposed Rule 2001(c)(i)(A)(1) to state that the applicable price changes for

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ 15 U.S.C. 78d-1(a)(1)(D).

¹⁴ The details of the reorganization of Rule 2001 are contained in the Description section above.

⁷ The Commission notes that this language is essentially the same as that in other exchange's Pre-Opening Application rules and the model Pre-Opening Application rule contained in the ITS Plan.

Network B securities would be $\frac{1}{8}$ point for consolidated closing prices under \$5 and $\frac{1}{4}$ point for consolidated closing prices of \$5 or over; adding "Network A" to the footnote under proposed Rule 2001(c)(i)(A)(1) to state that "[i]f the previous day's consolidated closing price of a Network A Eligible Listed security exceeded \$100 and the security does not underlie an individual stock option contract listed and currently trading on a national securities exchange, the 'applicable price change' is one point;" deleting current Rule 2001(c)(X) "Tape Indications," replacing it with the ITS Plan model Pre-Opening Application rule language, and renumbering the section; adding proposed Rules 2001(c)(ii)(B), "Pre-Opening Responses from Open Markets" and 2001(d)(ii), "Responses When the Exchange is Open";¹⁵ and amending Rule 2001(d)(vii) to reflect a T+3 time frame.¹⁶

The Commission believes that these changes are consistent with the Act because they should facilitate transactions in securities between and promote the linkage among the ITS Participants by conforming the PHLX's ITS rules with the model Pre-Opening Application rules contained as Exhibit A to the ITS Plan and the other ITS Participants' rules. This alignment should help ensure that all the Participants operate under similar rules that are designed to achieve similar goals.

The Commission finds good cause to approve Amendment Nos. 1 and 2 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment Nos. 1 and 2 amend the Pre-Opening Application by adding proposed Rules 2001(c)(ii)(B) and (d)(ii) and by changing Rule 2001(d)(vii) to reflect a T+3 time frame, to conform PHLX's Pre-Opening Application rule those of the existing rules of other ITS Participants and to the model ITS Plan Pre-Opening Application rule. In addition, Amendment No. 1 makes a technical change by placing all sub-paragraph headings in bold print. These changes will help ensure consistency in the Pre-Opening Application rules of all the Participants.

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2 to the rule proposal. 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 Room. 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-97-13 and should be submitted by June 26, 1997.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁷ that the proposed rule change (SR-PHLX-97-13), including Amendment Nos. 1 and 2, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97-003]

Additional Hazards Study

AGENCY: Coast Guard, DOT.

ACTION: Notice and request for comments.

SUMMARY: This notice announces two public workshops to be held to present the results of the Additional Hazards Study.

DATES: Duplicate public workshops will be held on June 24, 1997, from 8:30 a.m. to 12:30 p.m. and 5:30 p.m. to 9:30 p.m. Comments concerning this notice should reach the Coast Guard on or before 6 July, 1997.

ADDRESSES: The workshops will be held at Best Western Executive Inn, 200 Taylor Ave. N., Seattle, WA 98109. Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) [CGD 97-003], U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through

Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this project. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Duane Boniface, Human Element and Ship Design Division (G-MSE-1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, telephone 202-267-0178, fax 202-267-4816, email fldr-he@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written data, views, or arguments, concerning the subject matter of this notice. Persons submitting comments should include their names and addresses, identify this docket (CGD 97-003), and give the reason for each comment, providing specific examples whenever possible. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Background and Purpose

The Volpe National Transportation Systems Center (Volpe) has conducted a study entitled "The Additional Hazards Study" on behalf of the U.S. Coast Guard and Department of Transportation in accordance with a Presidential Directive issued in 1996. This study has evaluated all measures, current and planned, intended to reduce the hazards of major oil spills (including crude oil, refined product, and bunker) by commercial ships while transiting the waters of Puget Sound, the Straits of Juan de Fuca, and the Olympic Coast National Marine Sanctuary. An example of one of these measures is the planned International Tug of Opportunity System (ITOS), which is a system designed to coordinate tugs responding to disabled vessels off the Olympic Coast.

This study represents another step in a continuous improvement process to address maritime concerns in the Pacific Northwest. Development of this project began in early December 1996.

These Workshops are the second formal session to obtain stakeholder

¹⁵ See Amendment Nos. 1 and 2, *supra* note 4.

¹⁶ See Amendment Nos. 1 and 2, *supra* note 4.

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).