

program in which it is used. The Commission believes that this is appropriate as it will give the Exchange an opportunity to review and analyze the program material as it appeared on the internet, to assure the accuracy of the information, thereby resulting in continued investor protection and overall public interest.

Finally, the Commission believes that amending Rule 9.24 to state expressly that it only applies to Members and Member Organizations for which the Exchange is the DEA is appropriate, as it will clarify the scope of the rule and its application only to Members and Member Organizations.

The Commission finds good cause to approve Amendment No. 1 to the filing prior to the 30th day after the date of publication of the notice of filing because the Amendment does not affect the substantive rights of Members and accelerated approval will facilitate the uninterrupted implementation of the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. Persons making written submission 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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 5th Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available at the principal office of the Exchange. All submissions should refer to File No. SR-PCX-97-13 and should be submitted by July 3, 1997, in the **Federal Register**.

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change and Amendment No. 1 are consistent with the Act and the rules and regulations thereunder applicable to the PCX, and in particular Section 6(b)(5).

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-PCX-97-13) be and hereby is approved, and that Amendment No. 1 filed thereto be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-18091 Filed 7-9-97; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38809; File No. SR-PHLX-97-31]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Proposing Amendments to Its Certificate of Incorporation and By-Laws

July 1, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 25, 1999, the Philadelphia Stock Exchange, Inc. ("PHLX" or Exchange") filed with the Securities and Exchange 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 hereby proposes amendments to its Certificate of Incorporation and By-Laws. A Table of Contents that provides a section-by-section description of the proposed amendments and the text of the proposed amendments are available at the places specified in Item IV below.

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 statement.

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

PHLX hereby proposes amendments to its Certificate of Incorporation and By-Laws that are designed to promote an enhanced governance structure for the Exchange. These reforms were based upon recommendations made by a Special Committee appointed by the PHLX Board to review and make recommendations regarding the Exchange's governance structure, including the operations of the Exchange and the composition of its Board, committees and other entities involved in the governance of the Exchange.

The Special Committee on Governance was organized in December 1996. Irving M. Pollack, a former SEC Commissioner, was appointed to chair the Committee. The other members of the Committee were: J. Cater Beese, Jr., a former SEC Commissioner, member of the PHLX Board and Chairman of Alex. Brown International; Ronald K. Brandes, a public member of the PHLX Board and Managing Director of Braddis Associates, Inc.; James Dimon, President and Chief Operating Officer of Travelers Group and Chairman and Chief Executive Officer of Smith Barney, Inc.; Joseph Grano, Jr., President of PaineWebber, Inc.; Stephen H. Hanke, a public member of the PHLX Board and Professor of Applied Economics at Johns Hopkins University's Department of Economics; Peter R. Kellogg, Chief Executive Officer and Senior Partner of Spear Leeds & Kellogg; Leon M. Schochet, a member of the PHLX Board and an Investment Limited Partner of J.C. Bradford & Co.; Michael D. Waber, President of Fairview Trading, Inc., and John F. Wallace, Chairman of the PHLX Board and President of Wallace Securities Corp.

On March 4, 1997, the Securities and Exchange Commission's Office of Compliance Inspections and Examinations ("OCIE") issued a report based on a special examination of the Exchange ("OCIE Report"). The OCIE Report specifically recommended an increase in public Governor representation to at least fifty percent (50%) of PHLX Board composition, including non-industry Governors, among other governance reforms. On March 7, 1997, SEC Chairman Arthur

⁸ 15 U.S.C. 78s (b) (2).

⁹ 17 CFR 200.30-3(a) (12).

¹ 15 U.S.C. § 78s(b)(1).

Levitt personally addressed the PHLX Board of Governors to underscore the critical need to implement the recommended reforms expeditiously. Thereafter, the PHLX Board unanimously adopted a resolution committed to implement a series of major governance initiatives, including the Commission's recommendation regarding public and non-industry Governor representation on the PHLX Board.

On April 4, 1997, the Governance Committee issued its report entitled "The Report to the Board of Governors by the Special Committee on Governance of the Philadelphia Stock Exchange, Inc." ("Governance Report"). The Governance Report was based upon comprehensive interviews with members, staff and others, significant document review and numerous Committee meetings. The Governance Report made a number of recommendations that would require amendments to the Exchange's By-Laws to implement such recommendations, including combining the position of Chairman of the Board of Governors with that of the Chief Executive Officer; reducing the size of the Board and increasing the number and proportion of non-industry and public Governors; restructuring the Board's key committees; revising the charters of certain committees; and establishing essential new committees.

On April 14, 1997, the Board adopted the Governance Report's recommendations with minimal changes. Thereafter, the Exchange's Legal Department, with assistance of the Governance Committee's counsel, drafted the proposed amendments to the Exchange's Certificate of Incorporation and By-Laws that will implement the recommendations. The Commission staff had been provided with the draft amendments. On May 21, 1997, the Board approved the draft amendments with certain minimal changes. Thereafter, with the PHLX Board's strong endorsement, the amendments were announced to the membership in accordance with Exchange By-Law Article XXII, Section 22-2.

As no written request was made for requesting a special meeting of the Exchange membership to consider the amendments, the PHLX Board on June 18, 1997 unanimously approved the proposed amendments for filing with the Commission.

Two of the most significant proposed changes to the By-Laws are reducing the size of the Board from 30 to 22 Governors and changing the composition of the Board to 11 non-industry Governors, of whom at least 5

shall be public Governors; 10 industry Governors; and a Chairman of the Board who will be the full time, paid Chief Executive Officer of the Exchange.²

The proposed By-Law amendments make significant changes to the Nominating Committee's charter. The amendments specify that a majority of the Committee be non-industry Governors and authorize the Committee to select non-industry and public Governors, nominees for industry Governor, committee chairs, and the Nominating Committee's successors, and to fill vacancies on the Board, all subject to Board approval.³

The proposed By-Law amendments specify the composition of the 10 industry Governors as follows: 2 Equity Floor industry Governors, 1 Equity Options Floor Specialist Governor and 1 Equity Options Floor Registered Options Trader Governor (all of whom shall work on the Exchange Floor or be a general partner, executive officer or member associated with a member organization primarily engaged in business on the Exchange Floor); 1 Equity Options Floor Broker Governor (who shall work on the Equity Options Floor); and 5 Off-Floor Governors.⁴ Except for the Chairman of the Board, all Governors are subject to term limits of two consecutive three year terms.⁵

The manner in which the Vice Chairmen of the Board are selected also has been changed. Instead of the Vice Chairmen being elected by the membership, the Board will now appoint the Off-Floor Vice Chairman from among the Off-Floor Governors, and the On-Floor Vice Chairman from among the On-Floor Governors. If there is a contest for On-Floor Vice Chairman, a membership election will be held solely for the On-Floor Vice Chairman.⁶

The number of members required to file independent Governor nominations is proposed to be increased from 10 to 50 members for an individual nomination, and 30 to 75 members for nominating an entire slate or portion thereof.⁷

² See By-Law Article IV, Section 4-1 and By-Law Article V, Section 5-1. Various other amendments to the By-Laws have been made in connection with these changes. For instance, references to "President" have been changed to refer to the "Chief Executive Officer" or "Chairman of the Board" and revisions to the number of Board members necessary to effect certain Board actions have been made, e.g., in most cases where the affirmative vote of 15 of the current 30 Governors was required, the By-Law is changed to state that a majority vote is required.

³ See By-Law Article III, Section 3-5.

⁴ See By-Law Article IV, Section 4-1.

⁵ See By-Law Article IV, Section 4-3.

⁶ See By-Law Article IV, Section 4-2.

⁷ See By-Law Article III, Section 3-7.

Substantial amendments relating to the Exchange's standing committees, including adding new standing committees of Automation, Compensation and Quality of Markets; reducing the size of standing committees to no more than 9 members except for floor committees, which may have no more than 12 members; requiring the committee chair and at least one other member to be a Governor; and revising the charter and composition of certain existing committees, all which have been proposed for By-Law Article X. Of particular note, the Executive Committee will be authorized, with Board approval, to appoint committee members other than committee chairs, and to act on behalf of the Board when the Board is not in session.⁸ The Audit Committee will be composed of 3 public Governors and the Committee's charter will be significantly expanded to authorize the Committee's inquiries into all aspects of the Exchange's operations and finances, including regulatory matters.⁹

The Arbitration Committee's composition has been reduced from 25 to 4 members and member controversies will be handled in the same fashion as public customer controversies.¹⁰

Business Conduct Committee ("BCC") appeals will be taken directly to the Board as the Disciplinary Review Committee is proposed to be eliminated.¹¹ The Exchange Enforcement staff will be entitled to petition the Board to appeal a BCC decision.¹²

Board Advisory Committees that hear appeals of standing committee decisions and are composed of 3 Governors, will now include at least 1 public Governor.¹³

Certain provisions of the PHLX Certificate of Incorporation and By-Laws are being proposed to be adopted and/or amended in order to attract qualified candidates to serve on the PHLX Board and committees, and to clarify the responsibilities and obligations of those who are appointed. In this regard, new Article XVIII to the PHLX Certificate of Incorporation is being proposed in order to limit liability of PHLX Governors, as permitted under the Delaware General Corporation Law. Additionally, current By-Law Article IV, Section 4-18, is proposed to be replaced entirely by a

⁸ See By-Law Article X, Section 10-14.

⁹ See By-Law Article X, Section 10-9.

¹⁰ See By-Law Article X, Section 10-8.

¹¹ See By-Law Article X, Section 10-11.

¹² See By-Law Article XI, Section 11-3.

¹³ See By-Law Article XI, Sections 11-1 and 11-2.

provision that provides broad and comprehensive indemnification coverage and rights to Governors, committee members and officers of the Exchange, and provides discretionary authority for the Board to indemnify agents and employees of the Exchange.

By-Law Article IV, Section 4-8, is proposed to be amended so that no person shall participate in the "determination" as opposed to "adjudication" of any matter in which he is personally interested. This change would expand the coverage of this provision, which pertains to disqualification of Governors from participation in Board actions. Additionally, Article XIV of the PHLX Certificate of Incorporation is proposed to be replaced in its entirety with a current provision of the Delaware General Corporation Law regarding contracts and transactions entered into by the PHLX in which a Governor, director, or officer has a financial interest.

A number of other revisions to the By-Laws are proposed for the sake of organization or accuracy. For instance, the term "Corporation" has been changed throughout the By-Laws to "Exchange," and By-Law Articles VI and VII regarding Vice Chairmen of the Board of Governors and Officers of the Corporation are being deleted in their entirety with the relevant sections being moved into Article V.

The proposed rule change is consistent with Section 6(b)(3) of the Act in that more Governors shall be representative of investors and not associated with a member of the Exchange, broker or dealer while promoting the opportunity to assure fair representation of PHLX members in the selection of nominees for Governors and the administration of the affairs of the Exchange. In addition, it is consistent with Section 6(b)(5) of the Act as it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and in general to protect investors and the public interest.

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

The PHLX does not believe that the proposed rule change will result in any burden on competition.

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

In accordance with PHLX By-Law Article XXII, Section 22-2, the membership was notified of the proposed amendment by Memorandum

dated June 4, 1997 and no written request was filed within the 10 day period allowed by the By-Law. Thereafter, on June 18, 1997, a membership petition was received by the Board pursuant to PHLX By-Law Article XXII, Section 22-1, which offered, in writing, certain proposed amendments to the By-Laws. This petition currently is being held by the PHLX Secretary pending completion of certain revisions to the proposed amendments by the petitioners, after which such amendments will be submitted to the membership for vote thereon.

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 PHLX 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, N.W., Washington, D.C. 20549. 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 Number SR-PHLX-97-31 and should be submitted by August 1, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Jonathan G. Katz,

Secretary.

[FR Doc. 97-17984 Filed 7-9-97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38808; File No. SR-Phlx-97-25]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Elimination of the Enhanced Parity Split for the Specialist in the 3D German Mark Foreign Currency Options

July 1, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 29, 1997, 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 proposes to eliminate the enhanced split applicable to the specialist trading cash/spot German Mark ("3D") foreign currency options³ ("FCOs") in Exchange Rule 1014(h). 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

¹⁴ 17 C.F.R. 200.30-3(a)(12).

¹⁵ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

³ 3D FCOs are cash-settled, European-style, cash/spot FCO contracts on the German mark that trade in one-week and two-week expirations. See Securities Exchange Act Release No. 33732 (Mar. 8, 1994), 59 FR 12023 (Mar. 15, 1994).