

- Supplementary Material .40 discusses the interplay between Rule 500 and the issuer's application to the SEC to withdraw the security from listing. Pursuant to Commission Rule 12d2-2(d) under the Exchange Act, an issuer may apply to withdraw the security from listing after complying with the requirements of the Rule. With respect to the delisting of stock, the proposed date of delisting in the application to the Commission must be the same date specified in the notice to shareholders. The issuer must contemporaneously send to the Exchange a copy of the application submitted to the Commission.

- Supplementary Material .50 parallels a provision in Rule 499 (governing Exchange-initiated delistings), which provides that, when reviewing the listing status of one class of securities, the Exchange will review the appropriateness of the continued listing of other classes of the issuer's securities. Factors the Exchange will consider in such a review under Rule 500 include, but are not limited to, the pricing relationship between the securities being delisted and the other security, and the ability of the Exchange to make a market in the remaining securities. For example, it is unlikely the Exchange would delist the common stock of an issuer that delists bonds. On the other hand, it is likely that the Exchange would delist the warrants of an issuer that delists its common stock.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with the requirements of Section 6(b)(5) of the Act,⁵ which requires that the rules of the Exchange be 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 Exchange believes that the proposal does not impose any 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 not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties. However, in a process initiated at the beginning of May 1997, the Exchange did consult with a number of its Board and advisory committees, pension funds and other constituents in developing the Rule. The NYSE represents that these

constituents overwhelmingly supported the revision of existing Rule 500, rather than its elimination.

According to the NYSE, the most controversial issue among the constituents was whether the requirement for a shareholder vote should be maintained, albeit with a simple majority vote. The great majority of those surveyed viewed delisting as a matter within the purview of the business judgment of a company's board of directors. These constituents believed that the Exchange could address the concerns underlying the desire for a shareholder vote by requiring (1) a higher-than-normal board vote, (2) the concurrence of independent directors, and (3) provision to shareholders of notice of a proposed delisting.

The Exchange believes that the text of the Rule reflects the reconciliation and incorporation of the comments and suggestions that the exchange received from these constituents.

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 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. In addition to any other issues that the public may wish to address, the Commission specifically requests comments on the following questions:

Are the shareholder notification procedures required under the terms of the proposal necessary to the delisting process?

What are the costs involved with complying with the requisite shareholder notifications?

Will issuers' costs arising from the requisite shareholder notification create a disincentive to delist from the Exchange?

Is there an acceptable alternative means to providing shareholder notification, such as through media publication?

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 NYSE. All submissions should refer to File No. SR-NYSE-97-31 and should be submitted by December 31, 1997.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39393; File No. SR-Phlx-97-51]

Self-Regulation Organizations; Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Allocation of Options Trades

December 3, 1997.

Pursuant to Sections 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 22, 1997, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 provide that the seller or largest participant to an option transaction is responsible for allocating an executed trade. Specifically, the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁵ 15 U.S.C. 78f(b)(5).

Exchange proposes to amend two Floor Procedure Advices ("Advices"): F-2, Allocation, Time Stamping, Matching and Access to Matched Trades; and F-12, Responsibility for Assigning Participation.

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 Phlx 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 Phlx 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

a. Advice F-2

Currently, Advice F-2 states that it is the duty of the largest participant in an options transaction to both match and time stamp the order tickets involved. There is currently no specific provision for who allocates options trades among trade participants. The purpose of the proposed rule change to Advice F-2 is to assign the responsibility or properly allocating option trades to the largest participant (or seller)³ involved in the trade. Violations of this new responsibility will be subject to the existing fine schedule accompanying Advice F-2. Paragraphs (b) concerning ticket preservation and (c) concerning member access to matched trades, of Advice F-2, remain unchanged.

Trade allocation includes the determination, based on existing rules, policies and practices, as to who is considered to be on a bid/offer, who participants in a trade and for what size. The Exchange believes that permitting the largest participant, which normally will be the Floor Broker who represents the original order in the trading crowd, to allocate trade participation should render the process more efficient and therefore accelerate execution reporting.

As previously stated, existing Exchange rules do not clearly address the process of, or parties responsible for, ensuring proper options trade allocation. The practice in most options

crowds is that specialists announce trade splits by saying to the trading crowd, "You did 10, you did 5," etc. This practice may differ, especially where a specialist unit is not involved in a trade, or where a great deal of trading and quote activity renders specialist allocating trades impractical. In these situations, Floor Brokers have assisted in this function, consistent with their duty to match and time stamp the trade, as well as their duty to ensure the best execution of orders.⁴

In determining how to assign this responsibility, the current duty of the largest participant (or seller) to match and time stamp the trade was decisive in determining who allocates option trades. Extending this responsibility to the largest participant (or seller)⁵ is a logical extension of the current requirements of Advice F-2. In adopting and amending this Advice, the intent has been to facilitate prompt and accurate trade reporting.⁶

b. Advice F-12.

The purpose of the proposed rule change to Advice F-12 is to extend its requirements regarding how trades are allocated to the equity/index options floor. Currently, Advice F-12 only applies to foreign currency options trading. In addition, Advice F-12 is proposed to be amended to only detain in the crowd actual trade participants and simplify ticket submission requirements.

Specifically, Advice F-12 requires that trade participants: (a) Must confirm and immediately inform the largest participant of their contra-side participation; (b) should not leave the crowd absent such confirmation; (c) should not submit tickets absent participation; and (d) must handle disputes properly. The Phlx believes that the extension of Advice F-12 to equity/index options trading should improve the certainty of trade allocation and maintain order during the allocation process. This is consistent with the original intent of Advice F-12 to facilitate the orderly operation of the option floor, especially for trades involving a number of market participants.⁷

The Phlx also believes that the proposed amendments to Advice F-12 will bolster its effectiveness in controlling the trade allocation process. Under the proposed amendments, no

one who has participated in the trade would be allowed to leave the crowd until the level of his/her participation in the trade has been confirmed by the largest participant. Previously, this obligation also applied to those who *believed they may have* participated in a trade. This change is intended to require only those who actually participated in a trade to remain in the trading crowd to confirm their participation in the trade. The Phlx states that the language concerning belief was difficult to administer and did not capture violations necessary to improve the post-trade process.

Further, Advice F-12 currently provides that no person in the crowd shall submit a ticket for matching on a trade when that person has or should have grounds to believe that he is not due participation in the trade. The Phlx asserts that by deleting the reference to "belief," the proposal is designed to simplify trade ticket submission, and as a result, establish the practice that a person who did not participate in a trade should not submit a ticket. Thus, a violation of Advice F-12 may result from submitting a ticket where no participation is due, even though the participant believed he/she participated. As cited by the Commission in the original approval of Advice F-12, it is reasonable to require trade participants to notify other parties of their participation levels and to resolve those levels at such time.⁸ The Exchange believes the proposed amendments are consistent with those goals, because they continue to facilitate the prompt determination of participation levels.

Advice F-12 currently contains a fine schedule, which is proposed to apply to the entire options floor. The proposal thus amends the Exchange's minor rule violation enforcement and reporting plan ("minor rule plan"),⁹ by amending the text of both Advices, as well as by extending the application of Advice F-12 to the equity/index options floor. The complete text of the proposed rule change may be examined at the places specified in Item IV below.

2. Basis

For these reasons, the proposed rule change is consistent with Section 6 of

⁸ *Id.*

⁹ The Phlx's minor rule plan, codified in Phlx Rule 970, contains floor procedure advices, such as Advice F-2, with accompanying fine schedules. Rule 19d-1(c)(2) authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting; Rule 19d-1(c)(1) requires prompt filing with the Commission of any final disciplinary actions. However, minor rule violations not exceeding \$2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

⁴ See Phlx Rule 1063.

⁵ See note 3, *supra*.

⁶ See e.g., Securities Exchange Act Release No. 33512 (January 24, 1994) 59 FR 4759 (February 1, 1994).

⁷ Securities Exchange Act Release No. 29580 (August 16, 1991) 56 FR 41876 (August 23, 1991).

³ The seller has the responsibility only when there are two parties to a trade. When there are multiple participants, the largest participant is responsible for allocating the trade.

the Act in general, and in particular, with Section 6(b)(5), 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, by facilitating prompt and accurate trade processing and reporting.

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

The Phlx 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.

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 or 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 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 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, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-97-51

and should be submitted by December 31, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice 2660]

Bureau of Oceans and International Environmental and Scientific Affairs; United States Man and the Biosphere Program: Request for Proposals for the Tropical Ecosystems Directorate

The Tropical Ecosystems Directorate (TED) of the U.S. Man and the Biosphere Program (U.S. MAB) announces a call for proposals to support applied research on the management, harvesting, utilization and marketing of tropical forest resources, both timber and nontimber, in the tri-national Mayan forest of Mexico, Belize and Guatemala.

A small number of grants of \$1000 to \$3500 US each, will be awarded in 1998. Persons interested in applying for these grants are encouraged to first obtain a copy of the TED core project description from the U.S. MAB Secretariat (Roger E. Soles), OES/ETC/MAB, U.S. Department of State, Washington, D.C. 20522-4401. Tel. (202) 776-8318, Fax. (202) 776-8367.

Funding Objectives

U.S. MAB/TED funding should assist research teams to add a national researcher to their effort as well as to: better integrate conservation and sustainable development; add a particular discipline to an ongoing research project; or explore the application of ongoing site-specific research to an additional site in the Maya Tri-National region. U.S. MAB/TED funding will not be provided for planning purposes.

Focal Issues

The TED recognizes that strategies to sustainably conserve the Mayan forest must address the needs of the rural communities that live in the forest and use its wild resources. Lack of an adequate knowledge base on the ecology and management of these resource species, nondestructive harvesting methods, and appropriate marketing and commercialization of these

products has negative impacts on the forest, on the resource base, and on local economies. For this reason we continue to invest in the development of new knowledge in these fields through small grants. In order to ensure that this new knowledge will be integrated into ongoing resource management and utilization activities, and to enhance local capacity to continue to produce new information as it is needed, our applied research program focuses on the integration of students or recent graduates (at the Bachelor or Master level), from the three countries into relevant projects led by respected researchers in these fields and linked with NGO's, and preferably local communities, in the region.

Content Requirements and Deadlines for Proposals

Persons interested should submit a one to two page proposal by February 27, 1998. Each proposal should have: a title page, a one page synopsis of the existing research project, up to five pages detailing the proposed use of U.S. MAB/TED funds that would be complementary to the TED core program, and a one-page budget with justification.

The U.S. MAB/TED will make final decisions by April 6, 1998.

No funds are available for institutional overhead. Only direct costs can be supported.

Funds will be committed to the managing institutions identified in the proposals during May 1998.

Evaluation and Review Process

Because of limited available funding, U.S. MAB/TED will give the greatest preference to those proposals that directly complement the objectives of the directorate's core program. Proposals will be evaluated for the intrinsic merit of the research or activity, its policy relevance, applicability to promoting sustainable use of tropical forest resources in the Maya Tri-National Region, and the quality and demonstrated productivity of the principals.

Principals will receive from the U.S. MAB Secretariat copies of all U.S. MAB/TED review evaluations of their proposal and a written notification of the directorate's decision on their project.

Submission of Proposals

Proposals may be submitted in Spanish or English to U.S. MAB Secretariat, OES/ETC/MAB, Room 107, SA-44C, U.S. Department of State, Washington, DC 20522-4401.

¹⁰ 17 CFR 200.30-3(a)(12).