

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 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 the 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 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 will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-97-34 and should be submitted by June 26, 1997.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38690; File No. SR-PCX-97-17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Incorporated Relating to a Correction to its Rules on Listing Requirements

May 28, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 13, 1997, the Pacific Exchange, Inc. ("PCX" 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 Exchange is proposing to modify its Rule 3.2(b) in order to correct a cross-reference in its rules on listing requirements. The text of the proposed rule change is available at the office of the Secretary, PCX 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 IV 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

On July 22, 1994, the Commission approved an Exchange proposal to modify its listing and maintenance standards.² Under the rule change, a

new Rule 3.2(b) was added, stating in part that "Any security listed pursuant to this Rule 3.2, paragraphs (c) through (i) . . . Shall be designated as a Tier I security." Subsequently, on December 16, 1994, the Commission approved an Exchange proposal to adopt listing standards for Limited Partnership Rollups.³ In that filing, the Exchange added a new Rule 3.2(i) ("Limited Partnerships"), and changed the numbering of existing Rule 3.2(i) ("Other Securities") to Rule 3.2(j). However, the cross-reference in Rule 3.2(b) was not also changed at that time. Accordingly, the Exchange is now proposing to make this technical correction by modifying Rule 3.2(b) to state, in part, that "Any security listed pursuant to this Rule 3.2, paragraphs (c) through (j) . . . shall be designated as a Tier I security."

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(4)⁵ in particular, in that it is designed to promote just and equitable principles of trade.

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

The Exchange represents that the proposed rule change will not 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change is concerned solely with the administration of the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act⁶ and subparagraph (e) of Rule 19b-4 thereunder.⁷

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

³ See Securities Exchange Act Release No. 35111 (Dec. 16, 1994), 59 FR 66388 (Dec. 23, 1994) (order approving SR-PSE-94-36).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4.

¹ 15 U.S.C. 78s(b)(1).

² See Securities Exchange Act Release No. 34429 (Jul. 22, 1994), 59 FR 38998 (Aug. 1, 1994) (order approving SR-PSE-93-12).

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).