

Auto-Ex may be continued, or its operation resumed for a longer period following determination by two Options Floor Officials and one Floor Governor (or a senior operations officer if no Floor Governor is available) determine that such action is appropriate. In the event that the three officials do not agree, a 2/3 majority prevails.⁶ Upon suspension of the Auto-Ex system, all market and marketable limit orders thereafter entered through the Exchange's Member Firm Interface will be routed to a booth on the Floor designated by the firm that entered the order. The order can then be taken to the crowd manually and represented by a floor broker.

The Exchange is also proposing to amend Rule 6.37 ("Obligations of Market Makers") by adding a new subsection (b)(4), which provides that if the interest of maintaining a fair and orderly market so requires, two Floor Officials may declare a fast market and allow Market Makers in an issue to make bids and offers with spread differentials of up to two times, or in exceptional circumstances, up to three times, the legal limits permitted under Rule 6.37(b)(1). The rule further directs such Floor Officials to consider the following factors in making the determination to allow wider markets: (A) whether there is an extreme influx of option orders due to pending news, a news announcement or other special events; (B) whether there is an imbalance of option orders in one series or on one side of the market; (C) whether the underlying security is trading outside the bid or offer in such security then being disseminated; (D) whether Floor Members receive no response to orders placed to buy or sell the underlying security; and (E) whether a vendor quote feed for POETS is clearly stale or unreliable.

The Exchange is also proposing to amend its Rule 6.87 ("Automatic Execution System"), by adding three new subsections relating to suspensions of Auto-Ex. Whenever a POETS system or vendor quote feed malfunction affects the Exchange's ability to disseminate or update market quotes on a floor-wide basis, the senior person then in charge of the Exchange's Control Room will be able to halt Auto-Ex on a floor-wide basis, upon declaration of a "fast market" by two Floor Officials.⁷

Similarly, if a POETS malfunction occurs and Market Makers are physically unable to update their quotations in an issue or issues at the same trading post or trading quad, two

Floor Officials may declare a "fast market" and direct the order book official ("OBO") to turn off the Auto-Ex system in only the affected issue or issues.⁸ Under either scenario, once the system malfunction has been corrected that the market quotes have been updated, two Floor Officials (or the senior person then in charge of the Control Room in the event of a floor-wide malfunction) may re-start Auto-Ex.⁹

Statutory Basis

The proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

Relation to Rule of Other Self-Regulatory Organizations

The proposed rule change is based, in part, on Rules 6.6(e) and 6.8.03 of the Rules of the Chicago Board Options Exchange ("CBOE").

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

The Exchange does not believe that the proposed rule change will 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

Written comments on the proposed rule change were neither solicited nor 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 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 rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

⁸ Proposed subsection (d)(2), Non-Floor-Wide POETS System Malfunction. Proposed subsection (d)(3) ("Other Unusual Conditions") further provides that if there are other unusual market conditions not involving a POETS System malfunction, two Floor Officials may suspend Auto-EX in accordance with Rule 6.28(b).

⁹ Cf. CBOE Rule 6.8, Interpretation and Policy .03.

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 Room, 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-PCX-97-21 and should be submitted by September 9, 1997.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38924; File No. SR-Phlx-97-36]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Pilot Program for Equity and Index Option Specialist Enhanced Parity Split Participants

August 11, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 24, 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

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

⁶ Cf. CBOE Rule 6.6(e).

⁷ Proposed subsection (d)(1), Floor-Wide POETS System Malfunction.

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 extend until December 31, 1997, the Exchange's enhanced parity participation ("Enhanced Parity Split") pilot program for equity and index option specialists ("Pilot Program"). Revisions to Exchange Rule 1014(g)(ii) and its corollary Option Floor Procedure Advice B-6 ("Advice B-6") are proposed only to change the expiration date of the Pilot Program. The text of the proposed rule change is available at the Office of the Secretary, the 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 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 August 26, 1994, the Commission approved, as a one-year pilot program, the Exchange's proposal to adopt an enhanced specialist participation in parity equity option trades.² On November 30, 1994, the Commission approved the Exchange's request to expand the Enhanced Parity Split to include index option specialists as well as equity option specialists.³ The Enhanced Parity Split was again amended on March 1, 1995 to modify the Pilot Program with respect to situations where less than three controlled accounts⁴ are on parity with

the specialist.⁵ At the termination of the first year of the pilot, the Exchange determined to renew the pilot for an additional year until August 26, 1996.⁶ The Exchange again determined to renew the pilot until August 26, 1997.⁷

The program works as follows: When an equity or index option specialist is on parity with one controlled account and the order is for more than five contracts, the specialist will receive 60% of the contracts and the controlled account will receive 40%. When the specialist is on parity with two controlled accounts and the order is for more than five contracts, the specialist will receive 40% of the contracts and each controlled account will receive 30%. When the specialist is on parity with three or more controlled accounts and the order is for more than five contracts, the specialist will be counted as two crowd participants when dividing up the contracts. In any of these situations, if a customer is on parity, he will not be disadvantaged by receiving a lesser allotment than any other crowd participant, including the specialist.

This enhanced split is not applicable to all equity and index options traded on the Exchange. It is only applicable to 50% of each specialist unit's issues listed as of the renewal date of the pilot each year and all option classes listed after that date. The Exchange also has a different enhanced split program in place for "new" option specialist units trading newly listed options classes where the specialist is on parity with two or more registered options traders ("ROTs").⁸ That program was approved on a permanent basis and, therefore, is not included in the subject of this filing.

Accordingly, the PHLX requests that the two-for-one specialist enhanced parity split pilot be extended until December 31, 1997.

In the Commission's most recent Approval Order,⁹ it was noted that prior to granting another extension or permanent approval of the pilot program, the Commission would require

accounts other than controlled accounts and specialist accounts. See Exchange Rule 1014(g).

² Securities Exchange Act Release No. 35429 (Mar. 1, 1995), 60 FR 12802 (Mar. 8, 1995) (order approving File No. SR-PHLX-94-59).

³ Securities Exchange Act Release No. 36122 (Aug. 18, 1995), 60 FR 44530 (Aug. 28, 1995) (notice of filing and immediate effectiveness of File No. SR-PHLX-95-54).

⁷ Securities Exchange Act Release No. 37524 (Aug. 5, 1996), 61 FR 42080 (Aug. 13, 1996) (notice of filing and immediate effectiveness of File No. SR-PHLX-96-29).

⁸ Securities Exchange Act Release No. 34109 (May 25, 1994), 59 FR 28570 (June 2, 1994) (order approving File No. SR-PHLX-93-29).

⁹ Release No. 34-37524, *supra* note 7, n.15.

the Exchange to submit a report ("Report") discussing: (1) Whether the Pilot Program has generated any evidence of any adverse effect on competition or investors, in particular, or the market for equity or index options, in general; (2) whether the Exchange has received any complaints, either written or otherwise, concerning the operation of the Pilot Program; and (3) whether the Exchange has taken any disciplinary action against, or commenced any investigations, examinations, or inquiries concerning the operation of the Pilot Program, as well as the outcome of any such matter. On July 31, 1997, the Exchange submitted the report, which is summarized below.¹⁰

As to the issue of competition, the Exchange found that the split as originally proposed was overly burdensome when only one or two controlled accounts were on parity with the specialist, so the rule was amended in March of 1995 in order to make the split more equitable in those situations.¹¹ Subsequently, the Exchange established a subcommittee composed of four specialists, four ROTs, and one floor broker who represents customers. The subcommittee has met on numerous occasions since that time to analyze the program and its effect on competition, investors and the market in general. The members of the subcommittee which represent all of the different interests on the trading floor and in the market, discussed the operation of the program and concluded that there was no evidence of any adverse effects on competition or investors or the market for equity or index options.

As to the second issue, the provision requiring the specialist to assure that the customer is not disadvantaged has been strictly enforced without incident and the Exchange has not received any complaints either orally or in writing from investors regarding inequitable splits or the program in general.¹²

¹⁰ See letter from Michele R. Weisbaum, Vice President and Associate General Counsel, PHLX, to George Villasana, Office of Market Supervision, Division of Market Regulation, Commission, dated July 31, 1997.

¹¹ Release No. 34-35429, *supra* note 5.

¹² According to the Exchange, its Matched Order Ticket System requires trade participants to submit matched tickets to the appropriate person at the specialist post immediately upon effecting a transaction in order to assure, among other things, that the party agrees with each contra-party's claim as to his or her level of participation. See Release No. 37524, *supra* note 7 (referencing telephone conversation on August 2, 1996 between Michelle R. Weisbaum, Vice President and Associate General Counsel, PHLX, and George A. Villasana, Attorney, Division of Market Regulation, SEC).

² Securities Exchange Act Release No. 34606 (Aug. 26, 1994), 59 FR 45741 (Sept. 2, 1994) (order approving File No. SR-PHLX-94-12).

³ Securities Exchange Act Release No. 35028 (Nov. 30, 1994), 59 FR 45741 (Dec. 7, 1994) (notice of filing and immediate effectiveness of File No. SR-PHLX-94-57).

⁴ A controlled account is defined as "any account controlled by or under common control with a member broker-dealer." Customer accounts, which include discretionary accounts, are defined as all

Finally, as to the third point, the Exchange took one disciplinary case against an equity option specialist for making an inequitable split among himself and the ROTs in the crowd in 1996.¹³ In that instance, the specialist was censured and suspended for one week as part of a settlement. The specialist has since left the Exchange. Since January 1, 1997, the Exchange has not commenced any investigations relating to the operation of the Pilot program.¹⁴

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act¹⁵ in general and in particular, with Section 6(b)(5),¹⁶ in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest. Specifically, the proposal balances the competing interests of specialists and market makers while assisting the specialist in making tight and liquid markets in its assigned issues and protects the public interest by requiring quarterly reviews and assuring that the customers' participation is never disadvantaged by the enhanced split.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

¹³ Enforcement No. 95-12, Business Conduct Committee, PHLX.

¹⁴ The Commission again notes that in connection with any future request by the Exchange for the Commission to either further extend or permanently approve the Pilot Program, the Exchange will be required to submit a report discussing 1) whether the Pilot Program has generated any evidence of any adverse effect on competition or investors, in particular, or the market for equity or index options, in general, 2) whether the Exchange has received any complaints, either written or otherwise, concerning the operation of the Pilot Program, and 3) whether the Exchange has taken any disciplinary action against, or commenced any investigations, examinations, or inquiries concerning the operation of the Pilot Program, as well as the outcome of any such matter.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from July 24, 1997, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e)(6) thereunder.¹⁷

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 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 Station, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Philadelphia Stock Exchange. All submissions should refer to File No. SR-PHLX-97-36 and should be submitted by September 9, 1997.

¹⁷ 17 CFR 240.19b-4(e)(6).

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

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202-205-6629.

SUPPLEMENTARY INFORMATION:

Title: "Mentor Information Survey".

Type of Request: New Collection.

Form No: N/A.

Description of Respondents:

Organizations which foster the growth of Women's Business Ownership.

Annual Responses: 10,000.

Annual Burden: 2,000.

Title: "Protégé Information Survey".

Type of Request: New Information Collection.

Form No: N/A.

Description of Respondents:

Organizations which foster the growth of Women's Business Ownership.

Annual Responses: 10,000.

Annual Burden: 2,000.

Title: "WNET Program Quarterly Report"

Type of Request: New Information Collection.

Form No: N/A.

Description of Respondents:

Organizations which foster the growth of Women's Business Ownership.

Annual Responses: 10,000

Annual Burden: 2,000

Title: "WNET Program Final Report"

Type of Respondents: New Information Collection.

Form No: N/A.

Description of Respondents:

Organizations which foster the growth of Women's Business Ownership.

¹⁸ 17 CFR 200.30-3(a)(12).