

believe that the requested relief meets this standard.

5. Applicants note that the terms and timing of the Transaction were determined by First Union and Signet and arose primarily out of business considerations beyond the scope of the Act and unrelated to the Fund and the Subadviser, including the time needed to obtain federal and state banking approvals for the Transaction. Applicants submit that it is in the best interests of shareholders of the Fund to avoid any interruption in services to the Fund, to allow sufficient time for the consideration and return of proxies, and to hold a shareholders meeting.

6. Applicants submit that the scope and quality of services provided to the Fund during the Interim Period will not be diminished. During the Interim Period, the Subadviser would operate under the New Agreement, which would be substantively the same as the Existing Agreement, except for its effective date. Applicants submit that if the personnel providing material services pursuant to the New Agreement change materially, the Subadviser will apprise and consult with the Fund's board of trustees to assure that the board (including a majority of the Independent Trustees) is satisfied that the services provided by the Subadviser will not be diminished in scope or quality. Accordingly, the Fund should receive, during the Interim Period, the same subadvisory services, provided in the manner, at the same fee levels as the Fund received before the Transaction.

7. Applicants contend that the best interests of shareholders of the Fund would be served if the Subadviser receives fees for its services during the Interim Period. Applicants state that the fees are essential to maintaining the subadviser's ability to provide services to the Fund. In addition, the fees to be paid during the Interim Period will be unchanged from the fees paid under the Existing Agreements, which have been approved by the shareholders of each respective Portfolio.

#### **Applicants' Conditions**

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. The New Agreement will have substantially the same terms and conditions as the Existing Agreement, except for its effective date.

2. Fees earned by the Subadviser in respect of the New Agreement during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such paid fees) will be paid (a) to the Subadviser in

accordance with the New Agreement, after the requisite shareholder approvals are obtained, or (b) to the respective Portfolio, in the absence of shareholder approval with respect to such Portfolio.

3. The Fund will hold a meeting of shareholders to vote on approval of the New Agreement on or before the 120th day following the termination of the Existing Agreement (but in no event later than April 30, 1998).

4. Either First Union or the Subadviser will bear the costs of preparing and filing the application, and costs relating to the solicitation of shareholder approval of the Fund necessitated by the Transaction.

5. The Subadviser will take all appropriate steps so that the scope and quality of advisory and other services provided to the Fund during the Interim Period will be at least equivalent, in the judgment of the Independent Trustees, to the scope and quality of services previously provided. If personnel providing material services during the Interim Period change materially, the Subadviser will apprise and consult with the board to assure that the board, including a majority of the Independent Trustees of the Fund, are satisfied that the services provided will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-27594 Filed 10-16-97; 8:45 am]

BILLING CODE 8010-01-M

## **SECURITIES AND EXCHANGE COMMISSION**

### **Sunshine Act Meeting**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** [62 FR 53040, October 10, 1997].

**STATUS:** Closed Meeting.

**PLACE:** 450 Fifth Street, N.W., Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** October 7, 1997.

**CHANGE IN THE MEETING:** Time Change/Deletions.

The closed meeting scheduled for Tuesday, October 14, 1997, at 11:00 a.m. was changed to Tuesday, October 14, 1997, at 2:00 p.m. and the following items were not considered:

Institution of injunctive actions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted

or postponed, please contact: The Office of the Secretary (202) 942-7070.

Dated: October 15, 1997.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 97-27755 Filed 10-15-97; 3:43 pm]

BILLING CODE 8010-01-M

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-39225; File No. SR-Phlx-97-32]**

### **Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Respecting the Public Order Exposure System for PACE Orders**

#### **I. Introduction**

On June 30, 1997, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to extend the duration of its automatic execution system order exposure time period for eligible orders from the current 15 seconds to 30 seconds.

The proposed rule change was published for comment in Securities Exchange Act Release No. 38864 (July 23, 1997), 62 FR 40882 (July 30, 1997). No comments were received on the proposal. This order approves the proposed rule change.

#### **II. Description**

The operation of the Philadelphia Stock Exchange Automatic Communication and Execution ("PACE") System is governed by Phlx Rule 229 ("PACE Rule"). The PACE System is the Exchange's automatic order routing and executing system for securities on its equity trading floor.

With respect to market orders entered into PACE, Supplementary Material .05 to the PACE Rule provides that, in 1/8 point markets or greater, round-lot market orders up to 500 shares and partial round-lot ("PRL") market orders up to 599 shares (*i.e.*, orders that combine a round-lot with an odd-lot order) are stopped at the PACE Quote<sup>3</sup>

<sup>1</sup> 15 U.S.C. § 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The PACE Quote consists of the best bid/offer among the American, Boston, Cincinnati, Chicago, New York, Pacific and Philadelphia Stock Exchanges as well as the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES"). See PACE Rule.

at the time of their entry into PACE ("Stop Price") in the Public Order Execution System ("POES"). In addition, market orders for more than 599 shares that a specialist voluntarily has agreed to execute automatically also are entitled to participate in POES.<sup>4</sup>

Supplementary Material .05 to the PACE Rule states that the purpose of stopping eligible market orders in POES is to allow such orders to receive an opportunity for price improvement. Supplementary Material .05 further states that if a stopped order is not executed within the applicable order exposure time period, or "window," the order will be automatically executed at the Stop Price.

Upon its adoption in early 1995, POES utilizes a 15 second order exposure window.<sup>5</sup> Following Phlx Floor Procedure Committee ("FPC") approval in December 1995, however, the Exchange increased the duration of the POES window from 15 to 30 seconds.<sup>6</sup> At this time, the Exchange proposes to codify the 30 second time period into Supplementary Material .05, which currently reflects a 15 second window. The Exchange has represented that it believes that extending the POES window to 30 seconds enables the specialist to better gauge the market and thus, improves the likelihood of price improvement. Moreover, the Exchange stated that it has learned, in its two years of experience with POES, that additional time is needed for a meaningful opportunity for price improvement to be afforded to such orders. In this regard, the Exchange represented that the 30 second window better enables the specialist to locate

between-the-market interest and probe other market centers.<sup>7</sup>

### III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with 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).<sup>8</sup> In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.<sup>9</sup>

As stated in the previous section, the purpose of the proposed rule change is to amend Supplementary Paragraph .05 to the PACE Rule in order to increase the duration of the Exchange's POES order exposure window from 15 to 30 seconds. Each regional exchange has incorporated an order exposure feature similar to POES into its automatic order execution system.<sup>10</sup> Initially, the Chicago Stock Exchange ("CHX") and the Pacific Exchange ("PCX") had adopted 30 second order exposure

windows into their rules. The CHX and PCX, however, amended their rules in 1990 to reduce the duration of their order exposure windows from 30 to 15 seconds.<sup>11</sup>

In the order approving the CHX and PCX proposals, the Commission acknowledged that any decrease in the duration of an order exposure window would have an adverse effect on price improvement opportunities available to eligible orders, while having a positive effect on the timeliness of the execution of such orders.<sup>12</sup> The Commission's analysis of the appropriateness of these proposals therefore required a balancing of their positive and negative effects. The Exchange's current proposal to increase the duration of the POES window requires that a similar analysis be undertaken; namely, balancing the proposal's potential positive effect on price improvement opportunities for customers orders against any negative effect that it may have on the timeliness of customer order execution. In this regard, based upon the Exchange's representations of its experience with POES, the system's functionalities, and the realities of competition for order flow between markets, the Commission believes that the Exchange's proposal strikes an appropriate balance in that the positive effects of increased order exposure time should offset any negative effects on the efficiency of order execution.

With regard to opportunities for price improvement, the Commission notes that, as stated above, the Exchange has had experience with both 15 and 30 second order exposure windows. The Exchange has represented that this experience has indicated that a 15 second window often was insufficient to allow the specialist to attempt price improvement at all, while the additional time afforded by a 30 second window provided specialists with a more meaningful opportunity to do so. In light of the Exchange's experience, and absent any empirical evidence to the contrary, the Commission believes that the proposal is appropriate in that the increase in order exposure time should result in a concomitant, and beneficial, increase in the price improvement opportunities afforded by Phlx specialists to customer orders that are eligible for POES.

<sup>4</sup> See Supplementary Material .05 to the PACE Rule.

<sup>5</sup> Securities Exchange Act Release No. 35283 (January 26, 1995), 60 FR 6333 (February 1, 1995) (File No. SR-Phlx-94-58).

<sup>6</sup> The Exchange has represented that by its oversight, this change was not filed with the SEC as a proposed rule change prior to its implementation pursuant to Section 19(b) of the Act and Rule 19b-4 thereunder. The Exchange contends that upon the discovery of this oversight in the course of drafting changes to the PACE Rule, the change was promptly filed with the SEC. See Securities Exchange Act Release No. 37479 (July 25, 1996), 61 FR 40276 (August 1, 1996) (File No. SR-Phlx-96-25). The Exchange has re-filed this change as a separate proposed rule change due to the withdrawal of File No. SR-Phlx-96-25. The Exchange represents that, to date, it has not distributed marketing material reflecting an order exposure window of 30 seconds.

The Commission notes that Section 19(b) of the Act provides that each self-regulatory organization is required to file any proposed rule change with the Commission and that no proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with its provisions.

<sup>7</sup> In addition, the Exchange previously had stated its reasoning behind the expansion of the POES window to 30 seconds in an amendment letter respecting File No. SR-Phlx-96-25. See Letter from Gerald D. O'Connell, Senior Vice President, Phlx, to Jennifer Choi, Attorney, SEC, dated July 19, 1996. Specifically, the Exchange stated that the FPC recognized that 15 seconds was often too short of a time period for the specialist to act. In this regard, specialists has informed the Exchange that by the time they noticed an order was stopped, it had been automatically executed. The Exchange further stated that its decision to expand the POES window to 30 seconds "is rooted in the logical principle that more time means more opportunity for price improvement." *Id.*

<sup>8</sup> 15 U.S.C. § 78f(b).

<sup>9</sup> In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

<sup>10</sup> BSE Rules, Ch. XXXIII, Section 3(c); CHX Rules, Art. XX, Rule 37(b)(6); and Securities Exchange Act Release No. 27727 (February 22, 1990), 55 FR 7396 (March 1, 1990) (order approving amendment of order exposure feature to PCX's P/COAST automatic execution system). See also CSE Rule 11.9(o)(2) (requires exposure of any unexecuted portion of any market or marketable limit order not fully executed pursuant to the CSE's public agency guarantee). In addition, the CSE has adopted a price improvement policy that requires preferencing dealers either to: (1) expose eligible customer orders on the Exchange for a minimum of 30 seconds in greater than minimum variation markets; or (2) immediately execute the order at an improved price. CSE Rule 11.9(u), Interpretation and Policy .01.

<sup>11</sup> See Securities Exchange Act Release No. 27727, *supra* note 10 (order reducing CHX and PCX order exposure time periods from 30 to 15 seconds). See also Securities Exchange Act Release No. 28667 (November 30, 1990), 55 FR 50624 (December 7, 1990) (order approving change in order exposure time from 30 to 15 seconds in CSE Rule 11.9(o)(2)).

<sup>12</sup> See Securities Exchange Act Release No. 27727, *supra* note 9.

Moreover, the Commission believes that the proposal should have a limited impact on the timeliness of order executions on the Phlx. In this regard, the Commission notes that under the proposal a specialist will maintain the ability to execute manually an order residing on POES prior to the expiration of the POES window. Accordingly, if the specialist determines that price improvement is unlikely to occur, the specialist may execute the order at the Stop Price prior to the end of the 30 second period. In addition, the effect of the proposal on the overall timeliness of Phlx executions is further limited by the fact that the POES window only is applicable to certain market orders and then only in 1/8 point markets or greater. Finally, the Commission believes that the competition between Phlx specialists and other markets for order flow should provide a continuing incentive for specialists to execute customer orders promptly, thereby serving to further alleviate any potential adverse impact that the proposal may have on the provision of timely executions of customer orders.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-Phlx-97-32) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-27544 Filed 10-16-97; 8:45 am]

BILLING CODE 8010-01-M

#### STATE DEPARTMENT

[Public Notice No. 2615]

#### Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on November 4, 5, and 6, at the U.S. Department of State, Washington, D.C. Pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c) (1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/

security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Nick Proctor, Overseas Security Advisory Council, Department of State, Washington, D. C. 20522-1003, phone: 202-663-0869.

Dated: September 26, 1997.

**Gregorie W. Bujac,**

*Director of the Diplomatic Security Service.*

[FR Doc. 97-27538 Filed 10-15-97; 8:45 am]

BILLING CODE 4710-24-M

#### DEPARTMENT OF TRANSPORTATION

##### Office of the Secretary

##### Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act 1995 (44 U.S.C. Chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 29, 1996 (61 FR 55835-55836) and a Notice of Final Determination was published on June 10, 1997 (62 FR 31655-31661).

**DATES:** Comments must be submitted on or before November 17, 1997.

##### FOR FURTHER INFORMATION CONTACT:

For information about the submission to OMB, Form OMB 83-I, including supporting statements for this collection contact the US DOT Dockets, Room PL 401, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, 1-800-647-5527. For Technical issues in the submission: Mr. Robert F. Schultz, Jr., Office of Motor Carrier Research and Standards, (202) 366-2718, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., E.T., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Federal Highway Administration (FHWA)

*Title:* Motor Carrier Regulatory Relief and Safety Demonstration Project.

*OMB Number:* 2125-0575.

*Type of Request:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Affected Public:* Motor Carriers operating commercial motor vehicles with a gross vehicle weight rating between 10,001 and 26,000 pounds in interstate commerce.

*Abstract:* The National Highway System Designation Act of 1995 (Payable-59, 109 Stat. 568) was signed by the President on November 28, 1995. Section 344 of the Act requires FHWA to implement a pilot program under which motor carriers operating commercial motor vehicles (CMS) with a gross vehicle weight rating between 10,001 and 26,000 pounds in interstate commerce may qualify for exemption from certain Federal Motor Carrier Safety Regulations (FMCSRS) (49 CFR part 325 *et seq.*). The Act directs the FHWA to establish criteria for admission to the pilot, and to monitor the performance of those participating in the pilot. Section 344 also states that "[the Secretary] shall complete the review [of the pilot program] by the last day of the 3-year period beginning on the date of the enactment of this paragraph [November 28, 1995]. [On November 28, 1998] the Secretary shall, after notice and an opportunity for public comment, grant such exemptions or modify or repeal existing regulations to the extent appropriate." By this language, Congress has directed the FHWA in explicit terms. The agency is bound not to just conduct and evaluate the pilot, but to grant exemptions, and modify or repeal regulations, immediately upon its conclusion, save only the time necessary to solicit public comment. On August 28, 1996, the agency published a notice for this collection, providing a proposed plan for this Project, soliciting public comment on the proposed Project, and referring to the agency's intent to request emergency processing. On October 29, 1996, the FHWA published a Supplemental Notice seeking public comment on the specific issue of whether the rules of the Project would preempt conflicting laws of the States. In February 1997, OMB granted emergency approval to the collection requirements of this Project until August 31, 1997. On June 10, 1997 the agency published a Notice of Final Determination on the Project, providing

<sup>13</sup> 15 U.S.C. § 78s(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).