

industry to reduce the minimum trading and quotation increments for equity securities imposed by the various self-regulatory organizations.⁷ As derivative securities, the price of options are determined in reference to the underlying securities. Consequently, the Exchange believes that where practicable, the Exchange should have minimum increments comparable to those applicable to the securities underlying the Phlx options.

The Exchange also believes that the proposed rule change would give the Exchange the flexibility to follow the suit of the principal exchanges for the underlying securities without having to update its rules continually, but at the same time would give the Exchange the flexibility it needs to deviate from the minimum increments established by the principal markets for the underlying securities in the event that the Phlx's systems were not immediately able to handle such increments. The Exchange, therefore, believes the quality of the market for Phlx options will be enhanced by allowing more accurate pricing of Phlx options.

Further, the Exchange is proposing to retitle Rule 1034 "Minimum Trading Increments" for consistency with other exchange's rules. The Exchange is also proposing to add express reference to index options for clarity, noting that Rule 1034 currently applies to index options pursuant to Rule 1000A(a). Lastly, the Exchange is proposing to delete Commentary .01 regarding the minimum trading increment for Value Line LEAPs. If needed, any such new product-specific trading increment could be adopted pursuant to the paragraph proposed to be renumbered as Rule 1034 (iii), which provides that different increments may be fixed by the Exchange. The proposal should extend the benefits of trading in a narrower increment to Phlx options, which should, in turn, promote more accurate pricing of options and tighter quotations.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6 of the Act⁸ in general, and in particular, with Section 6(b)(5),⁹ 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 by permitting narrower minimum trading increments in Phlx options. The proposal is also consistent with Section 11A of the Act,¹⁰ in that it promotes competition among the exchanges and market makers.¹¹

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

The Exchange 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

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

This proposed rule filing has been filed by the Exchange as a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(i) of the Act¹² and subparagraph (e)(6) of Rule 19b-4 thereunder.¹³ Consequently, 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; and (3) does not become operative until May 23, 1998, more than 30 days from April 22, 1998, 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 days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the act and Rule 19b-4(6) thereunder.

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.

¹⁰ 15 U.S.C. 78k-1.

¹¹ In approving these rules, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78s(b)(3)(A)(i).

¹³ 17 CFR 240.19b-4(e)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing; including whether the proposed rule change is consistent with the Act. 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 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 Phlx.

All submissions should refer to File No. SR-PHLX-98-12 and should be submitted by June 18, 1998.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-14023 Filed 5-27-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40006; File No. SR-PHLX-98-10]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Automatic Price Improvement for Certain PACE Orders

May 19, 1998.

I. Introduction

On February 10, 1998, 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")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt rules relating to a new

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁷ *Supra*, note 2.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

automatic price improvement initiative for PACE orders.

In proposed rule change was published for comment in the **Federal Register** on March 17, 1998.³ No comments were received on the proposal. This order approves the proposal as amended.

II. Description of the Proposal

PACE is the Exchange's automated order routing and execution system on the equity trading floor. PACE accepts orders for automatic or manual execution in accordance with the provisions of Rule 229, which governs the PACE System and defines its objectives and parameters. The PACE Rule establishes execution parameters for orders depending on type (market or limit), size and the guarantees offered by specialists.

Currently, paragraph (c)(i), Automatic Double-up/Double-down Price Improvement,⁴ states that where the specialist voluntarily agrees to provide automatic double-up/double-down price improvement to all customers and all eligible orders in a security, in any instance where the bid/ask of the PACE Quote⁵ is $\frac{1}{4}$ or greater, market and marketable limit orders in New York Stock Exchange or American Stock Exchange listed securities received through PACE in double-up/double-down situations for 599 shares or less shall be provided with automatic price improvement of $\frac{1}{8}$, beginning at 9:45 a.m. A specialist may also voluntarily agree to provide automatic double-up/double-down price improvement to larger orders in a particular security to all customers under this provision.

As a further effort to champion the principle of best execution, the Exchange is proposing a more comprehensive automatic price improvement initiative. Specifically, specialists could choose to provide $\frac{1}{16}$ automatic price improvement to eligible orders in $\frac{1}{8}$ or greater markets, or $\frac{3}{16}$ or greater markets. Thus, as compared to the current automatic price improvement feature for double-up/double-down situations which is limited to $\frac{1}{4}$ wide markets or greater,

the universe of orders eligible for the proposed feature would be expanded. Further, the proposal involves automatic price improvement without requiring a double-up/double-down situation. This again expands the benefits of price improvement to a larger universe of eligible orders.

Second, where a buy order would be improved to the last sale price which is a down tick, or where a sell order would be improved to the last sale price which is an up tick, the order is also not eligible for automatic price improvement, and is, instead, automatically executed at the PACE Quote. The following are examples of the exception to automatic price improvement respecting improvement to the last sale:

23-23 $\frac{1}{8}$
LS $\frac{1}{16}$ -
Buy executed at $\frac{1}{8}$
Sell improved to $\frac{1}{16}$
23-23 $\frac{1}{8}$
LS $\frac{1}{16}$ +
Buy improved to $\frac{1}{16}$
Sell executed at 23
23-23 $\frac{3}{16}$
LS $\frac{1}{8}$ -
Buy executed at $\frac{3}{16}$
Sell improved to $\frac{1}{16}$
23-23 $\frac{3}{16}$
LS $\frac{1}{8}$ +
Buy improved to $\frac{1}{8}$
Sell improved to $\frac{1}{16}$
23-23 $\frac{3}{16}$
LS $\frac{1}{16}$ -
Buy improved to $\frac{1}{8}$
Sell improved to $\frac{1}{16}$
23-23 $\frac{3}{16}$
LS $\frac{1}{16}$ +
Buy improved to $\frac{1}{8}$
Sell executed at 23
23-23 $\frac{1}{4}$
LS $\frac{1}{8}$ + or -
Buy improved to $\frac{3}{16}$
Sell improved to $\frac{1}{16}$

These exceptions are intended to cover situations where automatic price improvement may not be appropriate in light of overall market conditions. In this regard, the Exchange does not believe it is customary or appropriate to provide price improvement over the last sale price, or, in every case, to the last sale price. Despite these exceptions to automatic price improvement under this proposal, the Exchange believes that automatic price improvement would be afforded in a meaningful way, considering the wider breadth of eligible orders.

Under the proposal, automatic price improvement would not occur in two situations. First, automatic price improvement would not occur to a price

better than the last sale. More specifically, where a buy order would be improved to a price less than the last sale or a sell order would be improved to a price higher than the last sale, the order is not eligible for automatic price improvement, and is, instead, automatically executed at the PACE Quote. The following are examples⁶ of this exception (not improving over the last sale):

23-23 $\frac{1}{8}$
LS 23 + or -
Buy improved to $\frac{1}{16}$
Sell executed at 23
23-23 $\frac{1}{8}$
LS $\frac{1}{8}$ + or -
Buy improved to $\frac{1}{8}$
Sell improved to $\frac{1}{16}$
23-23 $\frac{3}{16}$
LS 23 + or -
Buy improved to $\frac{1}{8}$
Sell executed at 23
23-23 $\frac{3}{16}$
LS $\frac{3}{16}$ + or -
Buy improved to $\frac{3}{16}$
Sell executed at $\frac{1}{16}$

This is similar to the current exception from automatic double-up/double-down price improvement;⁷ however, currently where an improved price would be better than the last sale, the order would be stopped at the PACE Quote when received. Under this proposal, the order would be automatically executed at the PACE Quote when received.

This proposal would result in automatic price improvement of $\frac{1}{16}$, as opposed to the current automatic double-up/double-down price improvement, which provides for $\frac{1}{8}$ price improvement. Although the amount of automatic price improvement will be less under the proposal for a particular order, the number of orders receiving price improvement of $\frac{1}{16}$ should increase, as explained above. Price improvement of $\frac{1}{16}$ recognizes that $\frac{1}{16}$ is the current minimum trading increment for PACE issues on the Exchange's equity trading floor.⁸ Thus, it reflects the reality of today's

⁶ These examples consist of the PACE Quote, the last sale price with an up or down tick indicator, and the price at which a buy and sell order, respectively, would be executed.

⁷ See Securities Exchange Act Release No. 39640 (February 10, 1998), 63 FR 8510 (February 19, 1998), which creates an exception where such price improvement would be better than the last sale price (for instance, a buy order would be improved to a price less than the last sale or a seller order would be improved to a price higher than the last sale); pursuant to this exception, such orders are stopped by the specialist at the PACE Quote when received, meaning that the order is guaranteed to receive at least that price by the end of the trading day.

⁸ See Phlx Rule 125.

³ Securities Exchange Act Release No. 39740 (March 10, 1998), 63 FR 13083 (March 17, 1998).

⁴ For a more complete description of how the Exchange's Automatic Double-Up/Double-Down price improvement feature operates see Securities Exchange Act Release No. 39548 (January 13, 1998), 63 FR 3596 (January 23, 1998) ("Double-Up/Double-Down Order").

⁵ 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 Phlx Rule 229.

marketplace, including other price improvement initiatives in the industry.

Because the proposal would provide automatic price improvement, no POES window would occur, similar to the current automatic double-up/double-down price improvement provision.⁹ Instead, an automatic execution occurs at an improved price, with no window, timer or delay. Orders not eligible for automatic price improvement due to the two exceptions relating to the last sale price are automatically executed at the PACE Quote and not subject to the POES delay.

Automatic price improvement will not occur where the execution price before or after the application of automatic price improvement would be outside the primary market high/low range for the day, if so elected by the entering member organization. This limitation currently appears in Rule 229.07(c)(i)(C), and has applied to both automatic double-up/double-down price improvement and manual double-up/double-down price protection. Similarly, pursuant to paragraph (c)(iii), the provision that member organizations entering orders may elect to participate in manual double-up/double-down price protection continues to apply. However, member organizations will not have the ability to elect the proposed automatic price improvement feature.

Currently, both the automatic double-up/double-down price improvement and manual price protection features are jointly subject to the entering firm's election.¹⁰ As a result, electing these features where the specialist has not chosen automatic double-up/double-down price improvement in that security may currently cause a firm's orders to be stopped. Thus, firms who do not want their orders stopped because they prefer a prompt execution can currently elect out of both features.

Once automatic price improvement is no longer limited to double-up/double-down situations, the election for automatic price improvement will end, because the reason for allowing a firm's choice will no longer exist. Under this proposal, firms electing out of manual price protection could nevertheless receive automatic price improvement. For instance, where a specialist switches from manual to automatic price improvement for a security, the automatic feature would be activated

even for firms that elected out of the manual feature.

The Exchange notes that the *manual* double-up/double-down price protection provision, which is mandatory for specialists, will continue to be subject to an election by entering member organizations,¹¹ who may continue to prefer a prompt execution over the opportunity for price improvement. Failure to elect will result in the activation of the double-up/double-down feature for that User. Specialists continue to determine whether to provide automatic price improvement in a particular security.

The extraordinary circumstances provision currently in the Rule would also apply to the new feature, such that automatic price improvement may be disengaged in a security or floor-wide in extraordinary circumstances with the approval of two Floor Officials. In addition to fast market conditions, for purposes of this paragraph, extraordinary circumstances also include systems malfunctions and other circumstances that limit the exchange's ability to receive, disseminate or update market quotations in a timely and accurate manner.

The Exchange has determined that, as with many PACE features and participation in the PACE System itself, automatic price improvement should be made available on a voluntary, symbol-by-symbol basis, so that specialists can determine which securities are suitable for the program.¹² The availability of a price improvement feature benefits the specialist function, especially in high-volume securities, where stopping orders and manual intervention are time-consuming, delay execution and do not necessarily result in price improvement.

III. Discussion

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).¹³ In particular, the Commission believes that the proposal is consistent with the Section 6(b)(5)¹⁴ 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.¹⁵

The Commission continues to recognize that the increased competition for order flow that results from permitting regional specialists to attract orders from other markets by providing price improvement opportunities and superior quotations enhances market making ability and the quality of customer order execution. The Commission has approved proposals by national securities exchanges to integrate price improvement opportunities, on both an automatic and manual basis, into their automatic execution systems. Approval of the Exchange's automatic price improvement initiative will allow small orders to receive an execution at a price that may be better than the PACE Quote according to certain predefined criteria. Accordingly, the Commission believes that the Exchange's present proposal may enhance both intermarket competition and order execution quality on the Exchange.

Under the proposal, specialists voluntarily may agree to provide automatic price improvement of $\frac{1}{16}$ of a point from the PACE Quote to all customers and all market and marketable limit order of up to 599 shares (or higher, if elected by the specialist) in a particular security¹⁶ on a stock-by-stock basis, in any instance where the bid/ask spread of the PACE Quote is either $\frac{1}{8}$ or greater than $\frac{3}{16}$ or greater. As explained above, this automatic price improvement feature is subject to two restrictions. First, no order may be improved to a price better than the last sale price; in this situation, the orders would be automatically executed at the PACE Quote. Second, where a buy order would be improved to the last sale price which is a down tick, or where a sell order would be improved to the last sale price which is an up tick, the order is also not eligible for automatic price improvement, and is, instead, automatically executed at the PACE Quote.

The Commission believes that the adoption of this proposed automatic price improvement feature by the

⁹ See Double-Up/Double-Down Order, *supra* note 4, at note 10; and Securities Exchange Act Release No. 39640 (February 10, 1998), 63 FR 8510 (February 9, 1998).

¹⁰ This election must be made for all Phlx stocks, not security-by-security. See Double-Up/Double-Down Order, *supra* note 4, at note 22.

¹¹ A firm's election continues to apply to all Phlx stocks, not security-by-security.

¹² Some securities are not appropriate for automatic price improvement due to, for instance, liquidity, trading patterns and volatility situations rendering it unfair for specialists to afford price improvement automatically and then manage the resulting positions. See Double-Up/Double-Down Order, *supra* note 4, at note 11.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 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. 78f(b).

¹⁶ Securities listed on the New York Stock Exchange or the American Stock Exchange are eligible for this feature. See Phlx Rule 229.07.

Exchange is appropriate in that its use by Phlx specialists should increase the likelihood that eligible customer orders, particularly marketable limit orders, will be executed at an improved price over the PACE Quote. With respect to the two conditions above that would cause an order to be automatically executed at the PACE Quote, the Commission believes that it is reasonable for the Exchange to automatically execute such orders at the PACE Quote rather than subjecting them to the POES window or stopping them at the PACE Quote. Overall, the Commission's Division of Market Regulation previously has noted that price improvement windows, such as POES, by themselves rarely provide an execution that betters the quoted market.¹⁷ The Exchange's proposal should enhance the price improvement opportunities available for PACE orders since a greater number of orders will be eligible for automatic price improvement than afforded under the current Double-Up/Double-Down automatic price improvement feature.

In addition, the Commission believes that the Exchange's automatic price improvement initiative is consistent with the maintenance of fair and orderly auction markets on national securities exchanges. As the examples provided by the Exchange illustrate, the execution criteria of the automatic price improvement initiative should contribute to the maintenance of an orderly market by Phlx specialists because it helps to reduce price variations occurring from trade to trade on low volume. Finally, because automatic price improvement may be disengaged under extraordinary circumstances for an individual stock or floor-wide with the approval of two floor officials, the Exchange is able to increase overall systems capacity for systematized orders routed through PACE, as well as reduce the market risk exposure to specialists who participate in the automatic price improvement initiative. The Commission believes that both of these aspects of the automatic price improvement initiative are consistent with the maintenance of fair and orderly auction markets on national securities exchanges and the protection of investors.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the

proposed rule change (SR-PHLX-98-10) is approved as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-14120 Filed 5-27-98; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG-1998-3873]

Prevention Through People

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: Prevention Through People (PTP) is a Coast Guard initiated program to address marine safety and environmental protection through a focus on the human element. Since the program's inception in 1994, there has been a steady growth of support in the marine community. Current marine industry practices reflect the increased commitment to PTP. This notice informs the public of some of the major PTP efforts taking place within the Coast Guard and includes the response to comments from the four PTP public meetings held during the spring of 1997.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents, as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL-401, located on the Plaza Level of the Nassif Building, 400 Seventh Street SW., Washington DC 20590-0001, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this rulemaking on the Internet at <http://dms.dot.gov>.

The Marine Board of the National Academy of Science study, *Advancing the Principles of the Prevention Through People Program*, was published in August 1997 and is available at the National Academy Press Bookstore 2001 Wisconsin Ave. NW., Washington, DC 20418-0005; phone 800-624-6242, or 202-334-3313.

FOR FURTHER INFORMATION CONTACT: For information on the public docket, contact Carol Kelly, Coast Guard Dockets Team Leader, or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202-366-

9328. For questions on this notice, contact LT Duane Boniface, Human Element and Ship Design Division (G-MSE-1), 202-267-2997.

SUPPLEMENTARY INFORMATION:

Background of PTP

The PTP initiative began in 1994 with the chartering of a Quality Action Team (QAT) to develop a long-term strategy to address the role of human and organizational factors in marine safety and environmental protection. The QAT conducted an extensive literature review and analysis of marine casualty data, conducted mariner surveys, and examined operations from a maritime systems perspective that included an assessment of vessels, facilities, and waterways.

On July 15, 1995, the QAT generated a report, "Prevention Through People Quality Action Team Report." This report provided the first step towards re-balancing prevention efforts between technical, human, and organizational issues related to marine safety. Subsequent focus on human and organizational factors in safety and environmental protection led to these issues becoming top priorities for many organizations, both within the government and industry.

After the report was published, the Coast Guard and industry pursued a host of initiatives. These initiatives include partnerships with industry, studies of fatigue and communications, and introductions of risk assessment and risk management approaches. The PTP Strategic Plan (available in the docket; or contact the person under **FOR FURTHER INFORMATION CONTACT**) exposed a wider audience to the PTP philosophy, while the PTP Implementation Plan set high goals with various PTP objectives and activities for the Coast Guard to accomplish.

Additionally, the Coast Guard held four public meetings that allowed it to hear valuable industry comments concerning safety in the marine community.

PTP Focus Plan

There are many projects and initiatives under the umbrella of PTP. A list of the current projects and initiatives under the umbrella of PTP can be found on the PTP web site at the following website: <http://www.uscg.mil/hq/g-sm/nmc/ptp/index.htm>. From the list of these projects and initiatives, the Coast Guard is focusing on five major initiatives during 1998 referred to as the PTP Focus Plan. These initiatives were chosen based on public comments, marine industry input, and the results of the Marine Board of the National

¹⁷ See, Division of Market Regulation, SEC, Market 2000: An Examination of Current Equity Market Developments (January 1994), at Study V, n. 19.

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 17CFR 200.30-3(a)(12).