

clearing member of the collateral amount.

The rule change adds an interpretation to section 2 of Article XXI of the By-Laws to address situations in which the termination of a stock loan is reported to OCC at a settlement price (i.e., the amount of collateral that the lending clearing member must return to the borrowing clearing member) that is not consistent with OCC's records. A similar interpretation is added to Rule 2209 to address situations in which OCC receives a report of the termination either of a purported stock loan that does not exist on OCC's records or of a stock loan on OCC's records in a quantity that does not match the quantity in the termination report. In each case, the interpretation states that OCC's records will be dispositive in both of these situations and that OCC will not accept any responsibility for reconciling the discrepancy between its record and those of the affected clearing members.

The rule change also provides for an alternative termination process if OCC has suspended a hedge clearing member. Under the rule change, Rules 2202(c) and 2208(c) are amended to give OCC the express authority to instruct each hedge clearing member on the other side of a suspended clearing member's stock loans to terminate the stock loan in a manner other than the standard terminated described above. The rule change amends Rules 2210(b) and 2211 to allow OCC to direct the hedge clearing member that has not been suspended to use the collateral to buy in the loaned stock (if the suspended clearing member is the borrowing clearing member) or to sell out the loaned stock and apply the proceeds to the repayment of the collateral (if the suspended clearing member is the lending clearing member).

The rule changes amends Rule 2210(a) to state that if DTC suspends one of the parties to a stock loan prior to the time at which OCC would have otherwise accepted the stock loan into the hedge program, OCC will not accept the stock loan. Rule 2210(a) is also amended to state that OCC will accept any stock loan that complies with the completeness and accuracy requirements of Rule 2202(b) even if OCC suspends one of the hedge clearing members which is a party to the stock loan prior to the time at which OCC accepts the stock loan.⁸

⁸In such cases, OCC will instruct the hedge clearing member that has not been suspended to terminate the stock loan contract through the process set forth in revised Rules 2210(b) and 2211, as described above.

II. Discussion

Section 17A(b)(3)(F) of the Act⁹ requires that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of the national system for the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the rule change is consistent with OCC's obligation under Section 17A(b)(3)(F) because it should increase the use of OCC's hedge program which should in turn help to improve the efficiency and safety of stock lending transactions. Specifically, the Commission believes that increased use of the hedge program should reduce exposure to counterparty default, increase payment netting, reduce collateral requirements, and apply advanced clearing and risk management practices to the stock loan market. Accordingly, the Commission believes that the rule change should enable OCC to remove impediments to and help perfect the mechanism of the national system for the prompt and accurate clearance and settlement of securities transactions.

OCC requested that the Commission approve the proposed rule change prior to the thirtieth day after the publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because such approval should allow OCC to provide needed assurances to clearing members that the hedge program will be implemented, should OCC to institute changes to the hedge program to make it more attractive to clearing members and should allow OCC to train hedge clearing members on the new system interfaces. These changes should result in increased efficiency in the clearance and settlement process for OCC's clearing members that use the hedge program. The Commission also notes that the use of the hedge program is not mandated by OCC.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with Section 17A of the Act¹⁰ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-98-03) be and hereby is approved.

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 15 U.S.C. 78q-1.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹¹

Jonathan G. Katz,

Secretary.

[FR Doc. 98-16262 Filed 6-17-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40088; File No. SR-Phlx-98-25]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Regarding the Temporary Relocation of Phlx Dell Options to the American Stock Exchange, Inc. Trading Floor

June 12, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 12, 1998,³ 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 and II 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

Phlx is proposing to rent facilities from the American Stock Exchange Inc. ("Amex") for the trading of options on Dell Computer Inc. ("Dell") on the Amex for up to six months to address the exigency of extraordinary contract and trade volume, unique to Phlx-traded Dell options ("Phlx Dell options"). Specifically, Phlx proposes to utilize the options floor trading space and facilities, including the quotation, order entry, processing, execution, trade reporting and comparison functions, of Amex for Phlx member trades in Phlx Dell options. Thus, Amex would rent to Phlx a facility on Amex's New York

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On June 12, 1998, the Exchange filed Amendment No. 1 to the proposed rule filing, the substance of which is incorporated into the notice. See letter from Edith Hallahan, Associate General Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, Market Regulation, Commission, dated June 11, 1998.

floor for all Phlx Dell option series, with related support services. These options would continue to trade pursuant to Phlx rules, subject to Phlx supervision. As part of this arrangement, the Phlx specialist in Dell options, Phlx Registered Options Traders ("ROTs") and Phlx floor brokers would trade Phlx Dell options on the Amex, and Amex floor brokers would be deputized as Phlx members to trade Phlx Dell options, as discussed further below.

The Exchange requests the Commission to find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register**. The Exchange requests accelerated approval of the proposal to promptly facilitate an orderly, temporary relocation of Phlx Dell options to the Amex, in the interest of fair and orderly markets. As discussed in detail below, this arrangement, which is for a six-month period, addresses the exigency of recent extraordinary order and contract volume in Dell options, in light of the critical needs of order entry firms and their customers to receive prompt execution reports.

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 III 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

The purpose of the proposed rule change is to establish a temporary facility in New York to permit the trading of Phlx Dell options on Amex, to immediately improve the handling of Dell options by using Amex's options trading floor space and attendant technology. Recently, Phlx Dell options have been heavily traded on the Phlx⁴, accounting for daily volumes of roughly 30,000 contracts and as much as 69,000

contracts on a single day.⁵ This volume has increased steadily and dramatically over months, and, most recently, over the past several weeks, with the concomitant increase in order traffic, including cancel-replace orders. At the same time, trading in the stock of Dell computer has been active, due to various industry and corporate events.

In response to these events and others, the Phlx has been implementing technological improvements respecting its Automated Options Market ("AUTOM") System, and, specifically, upgrading the features available to Phlx specialists respecting the electronic limit order book. These improvements have benefited customers using the AUTOM System as well as the specialists and ROTs trading options on the Exchange. Phlx is committed to continuing to improve its systems. The development of AUTOM's X-Station reflects this commitment; its continued roll-out and improvements reflect the Exchange's commitment to address the needs created by active options such as Dell. The key features include improved cancellation order processing and contra-side "Wheel" enhancements. The X-Station continues to address the needs of the ever-changing options marketplace.

While Phlx has made significant enhancements to address higher volumes, they have been insufficient to address the critical needs of the order entry firms and their customers in the uniquely active Phlx Dell options. As Phlx Dell options volume has skyrocketed, the Exchange has faced delays in transaction reporting to order entry firms, due to the time intensity associated with ticket matching and key punching, exacerbated by the number of contra-side participants to Phlx Dell options trades. Certainty as to an order's status is essential in the options markets, particularly where the stock is volatile, such as in the computer industry.⁶

Accordingly, the Exchange is now proposing to move Dell options to a rented facility at Amex to immediately improve the processing of the increasing volume of Phlx Dell options trades with attendant increases in trade reporting.⁷

⁵ 69,063 Dell options contracts traded on February 19, 1998, with 9,952 orders and 8,599 trades processed.

⁶ Many member firms and customers use options as "insurance" or "hedges" in connection with trading and investment strategies in underlying securities. Timely reports of option trade executions and corrections are critical to the execution of these strategies and, more generally, meeting customer expectations and needs.

⁷ The Phlx will continue the implementation of electronic order book feature upgrades on its own floor.

Promptly renting and using Amex's facilities for Phlx Dell options trading should help protect investors and the public interest by providing a technologically appropriate facility for Phlx Dell options trading, pending further enhancements on the Phlx floor.

In short, the extraordinary volume in Phlx Dell options has given rise to this arrangement, which is specific to Phlx Dell options, as no other Phlx option currently generates this volume of quotes, orders and trades.⁸ Thus, the Exchange believes that the immediate and critical technological need is unique to Phlx Dell options and has arisen with such speed and magnitude that prompt relocation is necessary to enable the specialist unit and the Exchange to provide the most efficient and effective service to customers and the investing public with respect to Phlx Dell options.

Phlx is requesting immediate accelerated approval of this rule change for such time as this arrangement to trade Phlx Dell options through Amex facilities is in effect, up to six months. The rules, policies and procedures associated with this move are discussed below. Trading of Phlx Dell options through the Amex facilities will remain subject to all of Phlx's rules, except for certain appropriate exceptions as enumerated below. Phlx will pay Amex for its facilities and other services provided for under the arrangement. As part of this relocation, the Exchange notes that operational functions respecting these options will be handled by Amex systems, including quotation processing, booking orders, transactions processing, trade correction, and clearing through OCC.⁹ Accordingly, trades cleared by OCC may have Amex identifier codes on certain OCC reports, although OCC has agreed to advise its members that Phlx Dell options are registered, listed and traded under the rules of Phlx. While Amex systems rather than the AUTOM system will be used, Phlx Rule 1080 will continue to

⁸ The next most active option has recently traded 89% less than Dell options, on average. In the first five months of 1998, Dell options accounted for 22.5% of Phlx volume, as compared to 14% in 1997.

⁹ Phlx Dell options are currently registered by The Options Clearing Corporation ("OCC") as securities listed on Phlx via a Form 8 amendment under the Act. Trading Phlx Dell options using rented facilities on the floor of Amex in no way suggests that these options are listed on the Amex. Indeed, in October 1989, when options listed on the Pacific Stock Exchange were physically moved to the Amex, Chicago Board Options Exchange, New York Stock Exchange and the Phlx due to an earthquake, OCC did not register those options at any other exchanges. See Securities Exchange Act Release No. 27365 (October 19, 1989), 54 FR 43511 (October 25, 1989) (SR-Phlx-89-52).

⁴ Dell options volume increased 163% in 1997 from the first quarter to the fourth quarter of 1997.

apply, except for those parameters in the rule that are not currently compatible with Amex system configurations. Specifically, until such time as the relevant Amex systems can be reconfigured to apply Phlx parameters to the Dell options, Amex parameters will apply regarding the maximum order size eligible for electronic delivery to the trading floor, and the specific order types that may be accommodated in the system.¹⁰ Phlx will notify its members of its relocation of Phlx Dell options and of all necessary changes in applicable system parameters. Phlx intend to retain its authority to apply the parameters specified in its own rules and procedures at such time as Amex systems can be reconfigured to accommodate them. Members firms will be timely notified of all such system changes.

As a result of being traded through the Amex facility, Phlx Dell options would become eligible for order delivery and execution through the Amex Order File ("AOF"), a host order processing system that includes a variety of subsystems, including the automatic execution ("AUTO-EX") system.¹¹ Thus, the benefits of quick and efficient order entry and execution that small order entry systems provide will continue to be available to Phlx Dell options customers.

Phlx will permit, and has made arrangements with Amex to facilitate, Phlx members who are floor brokers to have physical access to the Phlx Dell post in New York for trading and order execution of orders in Phlx Dell options only. Phlx is also proposing to deputize Amex floor brokers as Phlx members for purposes of Phlx Dell options order handling to permit them to execute Phlx Dell options orders as brokers. Phlx states that such deputization is consistent with prior Commission-approved practices respecting the use of another exchange facility to trade options.¹² Deputization of Amex floor brokers will provide an additional method for the submission and execution of orders in Phlx Dell options, which is beneficial to investors. Deputized Amex floor brokers executing

orders in Phlx Dell options will be subject to all provisions in Phlx rules that would apply today to a Phlx member in the course of his acting as a floor broker for an order in the Phlx Dell options on the Phlx trading floor. However, an exception is that, deputized Amex floor brokers, as such, will be deemed to have satisfied, and the Phlx will waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a Phlx member, including all dues, fees and charges imposed generally upon Phlx members based on their status as such. In that regard, Amex procedures respecting the admission and qualification of members to trade on the Amex will be deemed to satisfy Phlx Rule 1061 regarding registration of floor brokers. In addition, with respect to deputized Amex floor brokers, the Exchange will waive application of Phlx Rule 1062, as a letter of authorization from a clearing member is not requisite for Amex floor brokers and is not considered necessary to protect the interests of either other members or the public. Phlx believes that the overall regulatory framework of the Amex adequately addresses the subject matter of these rules.¹³

The Phlx specialist unit would continue to act as such in Phlx Dell options in New York, and any Phlx ROTs choosing to trade Phlx Dell options would be eligible to do so at the Amex facility. Recognizing the two-sided market-making obligations associated with good faith market maker margin treatment, the Exchange notes that Phlx ROTs would be required to be physically present executing trades in person on the Amex floor to receive favorable margin treatment respecting Phlx Dell options, unless they were acting pursuant to Phlx Rule 1014.01 respecting off-floor orders. Otherwise, such ROTs would be subject to customer margin treatment respecting opening transactions.

As discussed above, Phlx Dell options would continue to trade pursuant to Phlx rules. Accordingly, the minimum trading increment, strike price, position and exercise limits, and other trading related rules of Phlx would govern, subject only to system configuration issues discussed below. As Phlx rules will apply to Phlx Dell options trading but such trading will be conducted through Amex systems, surveillance reports will be generated by the Amex systems, but surveillance respecting Phlx Dell options trading will remain the responsibility of Phlx. With respect to trading floor disputes, Phlx rules and

procedures will apply, such that Floor Officials versed in Phlx rules, policies and procedures will be appointed to act at the Phlx's New York facility. With respect to FLEX options trading, Phlx Rule 1079 will govern, although Amex systems will process such trades, possibly necessitating immaterial procedural changes for Phlx FLEX trades relating to symbols and Request-for-Quote processing.

With respect to the liability provision of Phlx By-Law Article XII Section 12-11, the use of the facilities includes the Phlx Dell option facility on the Amex. Thus, non-liability for damages sustained by a member or member organization growing out of the use or enjoyment by such member organization of the facilities afforded by the Exchange for the conduct of their business should be extended to Amex systems and facilities provided under this temporary arrangement for Phlx Dell options trading on Amex as well as to Amex floor brokers who may trade Phlx Dell options pursuant to the deputization discussed above. In addition, by accepting this arrangement, Phlx, its members and employees shall accept the same limitations on the liability of Amex, as provided in the Amex Constitution and rules with respect to the use of Amex facilities for the conduct of business, as such limitations apply to any Amex member, member organization or employee thereof in the conduct of his or its business on Amex.

Because Phlx Dell options trading on Amex will be processed through Amex systems, such trades will appear in market data systems as Amex trades and may be cleared with other Amex trades, though the appropriate transaction volume will subsequently be attributed to the Phlx for various purposes, including the determination of Options Price Reporting Authority ("OPRA") revenues. Phlx transaction fees will continue to apply. Similarly, for technological reasons, a quotation through the Amex system will appear as an "Amex" quote, although in actuality it is a Phlx quote being processed by Amex. Notwithstanding the above, through dissemination of information memoranda to members and member organizations, it should be abundantly clear that Phlx Dell options are listed, traded and supervised according to Phlx rules and not the rules of any other exchange. Phlx has taken steps to advise member firms of the change in trading venue, so that member firms can make all necessary system and order routing changes that may be required and thereby reduce the risk of investor confusion in the trading of Dell options.

¹⁰ In addition, the specialist will not be able to be assured the first trade of the day on AUTO-EX, pursuant to Phlx Floor Procedure Advice F-24.

¹¹ The AOF also interfaces with the Amex Options Display Book ("AODB"), the Amex's electronic order book for options, which accommodates not only small orders sent in electronically, but also larger orders entered from the trading floor.

¹² See *supra* note 9. As discussed in that note, there was no required for OCC to re-register Pacific Stock Exchange options at each temporary facility after the 1989 earthquake.

¹³ See Amendment No. 1, *supra* note 3.

These steps will include notice to members and an educational session with Phlx for deputized Amex members who will be trading Dell options at the new facility. Phlx will monitor events and take additional steps as necessary to address specific confusion.¹⁴

With respect to disciplinary jurisdiction, the Exchange would continue to retain such jurisdiction over its members at the Amex facility for violations of Phlx rules. Because Phlx rules apply to trading in Phlx Dell options on the Amex, Phlx Rules 60, respecting order and decorum on the trading floor, and 970, respecting the minor rule violation enforcement and reporting plan, apply. Phlx would assume disciplinary jurisdiction over Amex floor brokers deputized to trade Phlx Dell options, pursuant to an acknowledgment signed by such Amex floor brokers that participation in the Phlx Dell option trading crowd triggers such jurisdiction. Deputized Amex floor brokers will also be required to attend a seminar familiarizing them with Phlx rules before they are permitted to execute orders as a floor broker in the Phlx Dell option.

2. Statutory Basis

For the reasons discussed above, the Exchange believes that the proposed rule change is consistent with Section 6 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, 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 by providing a Phlx facility on the Amex for the trading of Phlx Dell options.

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.

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. 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, 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 Room. 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-98-25 and should be submitted by July 9, 1998.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that Phlx's proposal to immediately establish a satellite trading facility on Amex to trade Phlx Dell options is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act¹⁷ in that the arrangement between Phlx and Amex fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The proposal should also help protect investors and the public interest by immediately providing a technologically appropriate facility to trade the Phlx Dell options and by permitting the prompt and effective processing of the increasing number of Dell options trades.

The Commission believes that it is reasonable, given the exigent circumstances of the recent extremely heavy trading of Dell options, for Phlx to move the trading of Dell options to a leased trading floor located at Amex. Amex is particularly well-suited to accommodate the trading of Dell options in a manner that is consistent with the promotion of fair and orderly markets and investor protection. In particular, Amex is an already established self-regulatory organization ("SRO") that is subject to its own rules and regulations

and the rules and regulations of the federal securities laws. Moreover, Amex has the necessary technological systems in place to ensure that orders for actively traded options, such as Dell, are routed, executed and processed in a prompt and efficient manner. The Commission notes that the trading volume in Phlx Dell options has increased steadily and dramatically over the past few months, particularly in the past several weeks, and that trading in Dell stock has also been active, due to various industry and corporate events. This increase in volume in Dell options trading has been accompanied by an increase in order traffic. As the volume has increased, Phlx has faced delays in transaction reporting to order entry firms, and this delay has been heightened by the number of contra-side participants to Phlx Dell option trades. The Commission understands that Phlx is committed to making the necessary systems improvements to accommodate very actively traded options such as Dell in the future. Presently however, the Commission believes it is essential to allow Phlx Dell options to trade through facilities that are technologically capable of supporting the magnitude of the trading volume that trading in Dell options commands. Accordingly, a temporary transfer of trading in Phlx Dell options to the Amex floor is an appropriate means of ensuring that the investing public has available a reliable trading venue for Dell options.

The Commission believes that, given the unique circumstances of the trading of Phlx Dell options on Phlx, Phlx has devised a regulatory framework that will reasonably ensure adequate regulatory oversight of the trading of Dell options on the Amex floor. As discussed above, Phlx is proposing to establish a satellite trading floor where Phlx floor brokers can trade Phlx Dell options pursuant to Phlx rules. The Phlx specialist in Dell options will continue to act as the specialist in Dell options on the Amex satellite floor, and any Phlx ROTS choosing to trade Phlx Dell options would be eligible to do so at the Amex facility. Phlx will continue to be responsible for surveillance of Phlx members trading in Dell options on the Amex floor, retaining jurisdiction over those members for violations of Phlx rules. Floor officials familiar with Phlx rules, policies and procedures will be assigned to act at the Phlx's Amex facility to resolve trading floor disputes.¹⁸ While it is true that, to

¹⁸ Phlx Rule 1079 will continue to apply to the trading of Dell FLEX options, although Amex systems will process such trades, which may

¹⁴ See Amendment No. 1, *supra* note 3.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78f(b)(5).

obtain the benefit of Amex's advanced technology and system, certain Phlx rules will not apply to the trading of Dell options on Amex,¹⁹ the use of Phlx of Amex systems (such as AOF) that have already been approved by the Commission is an appropriate regulatory alternative under the circumstances. In light of the exigent circumstances, the Commission believes that the proposed solution is an appropriate measure that provides adequate regulatory protections.

The Commission also believes that it is consistent with the Act for Phlx to deputize Amex floor brokers as Phlx members, to trade Dell options, to help ensure sufficient access by the investing public to Phlx's satellite facility at Amex. The Commission notes that it has, on a prior occasion, authorized similar deputization to allow for the use of another exchange facility to trade options.²⁰ As noted above, the deputized Amex floor brokers would be subject to all provisions in Phlx rules that would apply today to a Phlx member in the course of his acting as a floor broker for an order in the Phlx Dell options on the Phlx trading floor, with certain minor appropriate exceptions. In addition, Phlx will have disciplinary jurisdiction and oversight over deputized Amex floor brokers relating to the trading of Dell options on the Amex floor. Finally, deputized Amex floor brokers will be required to attend a training seminar to familiarize them with Phlx rules and any relevant distinctions between Phlx rules and Amex rules before they will be allowed to execute orders as a floor broker in the Phlx Dell options.

Phlx's proposed view that Phlx By-Law Article XII, Section 12-11, which disclaims Phlx's liability to Phlx members for damages growing out of the use and enjoyment of Phlx's facilities, is applicable to Phlx business conducted on the Amex floor, is appropriate given that Phlx is leasing such space and will be conducting its business through such facilities. Likewise, it is appropriate for those Phlx members that are temporarily re-located to the Amex facility to accept the same limitations on liability of the Amex. These Phlx members will utilize the applicable Amex systems in a nearly identical fashion to which they would have relied on Phlx systems prior to the move. Therefore, this requirement is a reasonable component of the agreement

to allow Phlx to create a temporary trading facility on Amex in Dell options.

Phlx essentially concludes that Phlx Dell options that will be traded on its temporary Amex facility should not be considered Amex-traded options for securities registration purposes and notes that in October 1989, when options listed on PCX were physically moved to Amex and other options exchanges, due to an earthquake, "OCC did not register those options at any other exchanges." The Commission believes that the continued trading of Phlx Dell options by Phlx using leased space on the floor of Amex does not cause such options to cease to be option traded on Phlx and that, accordingly, OCC does not need to amend its 1934 Act Registration to re-characterize these options as options listed or traded on another exchange.

Finally, the Commission notes that, to minimize investor confusion in the trading of Dell options, Phlx has stated that it will provide adequate notice to its members to ensure that they and the investing public are aware that Phlx Dell options are listed, traded and supervised according to Phlx rules, but are to be traded at a facility of Phlx located on the Amex floor. Phlx states that it has taken steps to advise member firms of the change in trading venue, so that they can make necessary system and order routing changes. These steps will include notice to members and an educational session with Phlx of deputized Amex members who will be trading Dell options at the new facility. Phlx is committed to monitoring events and will take additional steps as necessary to address specific confusion. These additional steps could include issuing press releases or making needed information otherwise available to Phlx's members and to the public.

For the reasons discussed above, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. The Commission believes that it is necessary to approve Phlx's proposal on an accelerated basis to protect the trading interests of the investing public, due to the exigency of transferring the trading of Phlx Dell options from the Phlx trading floor, which is not currently capable of managing the high trading volume of Dell options, to another SRO floor where the Dell options can be effectively and efficiently traded.

It is therefore ordered, pursuant to Section 19(b)(2)²¹ of the Act that the proposed rule change (SR-Phlx-98-25)

is hereby approved on an accelerated basis through December 12, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²²

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Released No. 34-40082; File No. SR-Phlx-98-19]

Self-Regulatory Organization; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., and Amendment No. 1 Thereto Relating to When a Security is Considered Open For Trading

June 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 1, 1998, 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 Phlx. On May 22, 1998, the Phlx filed an amendment to the proposal.³ 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 proposes to amend Phlx Rules 1047 (Trading Rotations, Halts and Suspensions), 1047A (Trading Rotations, Halts or Reopenings), and Option Floor Procedure Advice G-2 ("Advice G-2") (Trading Rotations, Halts or Reopenings), to clarify when a security is consider open for trading. Specifically, and underlying security

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Linda S. Christie, Counsel, Phlx, to Yvonne Fraticelli, Attorney, Division of Market Regulation ("Division"), Commission (May 22, 1998) ("Amendment No. 1"). In Amendment No. 1 Phlx replaces the phrase "principal exchange" in Rule 1047 with the phrase "primary market" to provide consistency with the language in the proposed amendments to Phlx Rule 1047A and Option Floor Procedure Advice G-2. Corresponding with Amendment No. 1, the word "exchange" should be replaced by the word "market" in the amended portion of Phlx Rule 1047. Telephone conversation between Linda S. Christie, Counsel, Phlx, and Marc McKayle, Attorney, Division, Commission (May 26, 1998).

necessitate procedural changes for Phlx FLEX trades relating to symbols and Request-for-Quote processing.

¹⁹ See Discussion section, *supra*.

²⁰ See *supra* note 9.

²¹ 15 U.S.C. 78s(b)(2).