

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 Section, 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 SR-Phlx-96-38 and should be submitted by February 13, 1998.

## V. Conclusion

For the reasons discussed above; the Commission finds that the proposal is consistent with the Act and Sections 6 and 11A of the Act, in particular. In addition, the Commission has previously concluded pursuant to Rule 9b-1 under the Act, that FLEX options, including FLEX equity options and FLEX index options, and FLEX index options traded and settled in certain designated foreign currencies, are standardized options for purposes of the options disclosure framework established under Rule 9b-1 of the Act.<sup>76</sup> Apart from the flexibility with respect to strike prices, expiration dates, exercise styles, and settlement (for FLEX index options), all of the other terms of FLEX options are standardized pursuant to OCC and Phlx rules.

Standardized terms include matters such as exercise procedures, contract adjustments, time of issuance, effect of closing transactions, restrictions on exercise under OCC rules, margin requirements, and other matters pertaining to the rights and obligations of holders and writers.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>77</sup> that the proposal (File No. SR-Phlx-96-38), as amended, including Amendment Nos. 2, 4 and 5 on an accelerated basis, is approved. In addition, the portion of the proposal eliminating FLEX equity options position and exercise limits is approved on a pilot basis until January 14, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>78</sup>

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39552; File No. SR-Phlx-97-55]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Establishing an Enhanced Parity Split Pilot Program for Specialists in Foreign Currency Options Effective Until December 31, 1998

January 14, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 1, 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to revise Exchange Rule 1014(h) to establish an enhanced parity split pilot program ("Pilot Program") for its foreign currency option ("FCO") specialists effective until December 31, 1998.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 Exchange 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 Exchange 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 Exchange previously provided and enhanced parity split to the

specialist dealing in dollar denominated delivery German Mark ("3D German Mark") options.<sup>2</sup> The enhanced parity split gave the specialist 50% of the first 500 contracts of any trade in 3D German Mark options. The Exchange eliminated the enhanced parity split earlier this year because the specialist in 3D German Mark options and other traders of the product found it to be of little benefit.<sup>3</sup> At the time the enhanced parity split was eliminated, the Exchange informed the Commission that it would continue to study the potential use of an enhanced parity split for all FCO specialists on a broader basis. This proposed rule change sets forth the Exchange's plan for the expanded use of the enhanced parity split in FCOs.

The Exchange seeks to implement an enhanced parity split procedure similar to the one currently applied to transactions in equity and index options at the Exchange.<sup>4</sup> Under the Pilot Program, however, the application of the proposed FCO enhanced parity split would be more widespread, and the enhanced parity split would be available to all FCO specialists assigned to FCO products.<sup>5</sup> The Pilot Program would be in effect until December 31, 1998.

The enhanced parity split would apply to the first 500 contracts in a FCO transaction in a FCO transaction. When the enhanced parity split is applied, the

<sup>2</sup> The enhanced parity split for the specialist in 3D German Mark options was first approved on December 29, 1994. See Securities Exchange Act Release No. 35177 (Dec. 29, 1994), 60 FR 2419 (Jan. 9, 1995). 3D German Mark options are cash-settled, European-style, cash/spot foreign currency option contracts on the German Mark that trade in one-week and two-week expirations.

<sup>3</sup> The enhanced parity split was eliminated as of September 8, 1997. See Securities Exchange Act Release No. 39030 (Sept. 8, 1997), 62 FR 48332 (Sept. 15, 1997). The sole specialist firm trading 3D German Mark options indicated that the enhanced parity split was not particularly useful and that it did not generally take advantage of it. Furthermore, the Exchange represented that the order size in 3D German Mark options generally was not large enough to trigger the application of the enhanced parity split (*i.e.*, such orders represented less than 100 contracts).

<sup>4</sup> The Exchange recently amended its enhanced parity split pilot program for equity and index option specialists to expand its application. As a result of the amendment, all index options and all newly listed equity options receive the enhanced parity split. However, only 50% of those equity options not considered "newly listed" are eligible to receive the enhanced parity split. In addition, specialists are now permitted to revise the list of eligible equity options on a quarterly basis, rather than an annual basis. See Securities Exchange Act Release No. 39401 (Dec. 4, 1997), 62 FR 65300 (Dec. 11, 1997).

<sup>5</sup> It should be noted that because FCOs on the Italian Lira and the Spanish Peseta are traded as customized options, there are no specialists assigned to those products. For simplicity and clarity, all further references to FCOs shall not include these two products.

<sup>76</sup> 17 CFR 240.9b-1. See *supra* note 9.

<sup>77</sup> 15 U.S.C. 78s(b)(2).

<sup>78</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

FCO specialist will be counted as two crowd participants when determining the allocation of the FCO contracts among the trading crowd participants on parity, except in the following circumstances: (i) when there is one other trading crowd participant on parity, the FCO specialist will receive 60% of the FCO contracts making up the order; or (ii) when there are two other trading crowd participants on parity, the FCO specialist will receive 40% of the FCO contracts making up the order.

Because a customer bid/offer for under 100 FCO contracts is deemed to have time priority over all other bids/offers, such an order will not be subject to the enhanced parity split.<sup>6</sup> This provision will help ensure that small customer orders are not disadvantaged by the application of the enhanced parity split. If a FCO transaction involves more than 500 contracts, those contracts exceeding the 500 contract threshold will be allocated on a pro rata basis among the crowd participants on parity.

It should be noted that the application of this enhanced parity split will be mandatory. Therefore, with respect to any FCO transaction that implicates the enhanced parity split, the FCO specialist will be required to accept the preferential allocation and may not decline the enhancement.<sup>7</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(5),<sup>9</sup> in particular, in that it is designed to promote just and equitable principles of trade; to 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; and to protect investors and the public interest. The Exchange further believes that the proposed rule change balances the competing interests of specialists and market makers while assisting specialists in making tight and liquid markets and protecting customer interests.

### *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 did not solicit or receive written comments with respect to the proposed change.

## 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 Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

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

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, 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 persons, 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 Section, 450 Fifth Street, NW., Washington, DC 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-Phlx-97-55 and should be submitted by February 13, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Jonathan G. Katz,**

Secretary.

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3047]

#### State of California

Orange County and the contiguous Counties of Los Angeles, Riverside, San Bernardino, and San Diego in the State of California constitute a disaster area as a result of damages caused by flooding and mudslides which occurred on December 6, 1997. Applications for loans for physical damages may be filed until the close of business on March 13, 1998 and for economic injury until the close of business on October 12, 1998 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853-4795.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere .....	7.625
Homeowners without credit available elsewhere .....	3.812
Businesses with credit available elsewhere .....	8.000
Businesses and non-profit organizations without credit available elsewhere .....	4.000
Others (including non-profit organizations) with credit available elsewhere .....	7.125
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere .....	4.000

The number assigned to this disaster for physical damage is 304706 and for economic injury the number is 971400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 12, 1998.

**Aida Alvarez,**

Administrator.

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<sup>6</sup> Exchange Rule 1014(h), "Options on Foreign Currencies," Section (i), states that "all bids/offers of customer accounts for under 100 contracts have time priority over all other bids/offers" on the FCO floor. In that instance, the FCO specialist cannot be on parity with such customer so the enhanced parity split will not apply. However, because Exchange Rule 1014(h)(i) does not confer time priority on customer orders for 100 or more contracts, FCO specialists may avail themselves of the enhanced parity split when interacting with customer orders involving 100 or more FCO contracts.

<sup>7</sup> Telephone conversation between Michele R. Weisbaum, Vice President and Associate General Counsel, Exchange, and Michael L. Loftus, Attorney, Division of Market Regulations, Commission (December 15, 1997).

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 17 CFR 200.30-3(a)(12).