

applications, including Commission registration material, to be filed in hard copy form.

- Proxy material. The Exchange conducts an immediate review of proxy material, including preliminary material, for a number of purposes. For example, the Exchange reviews possible changes to the company's board of directors. The Exchange also reviews proxies to determine whether brokers-dealers may vote certain routine items pursuant to Exchange Rule 452. Until the Exchange has more experience in accepting filings through EDGAR, it believes it can best expedite this review if it continues to receive multiple paper copies of the proxy material.

- Forms 8-K. Listed companies file these "current reports" to provide notice of certain material events. Because these reports can provide an early warning of material corporate developments, the Exchange preliminarily believes that it would be appropriate to receive hard copy delivery of this information.

The Exchange will monitor the operation of this rule. Based on that monitoring, the Exchange will consider expanding the categories of reports and other materials that listed companies can file with the Exchange through EDGAR, and will file a proposed rule change with the Commission if it determines to expand the operation of the rule.

## 2. Statutory Basis

The NYSE believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act<sup>5</sup> that an exchange have rules that are 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.

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

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

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The

Exchange has not received any unsolicited written comments from members or other interested parties.

## **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Act**

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act,<sup>6</sup> and subparagraph (e) of Rule 19b-4 thereunder.<sup>7</sup> The Exchange will not implement the proposed rule change until the Commission staff grants the requested No Action Letter concurring in the Exchange's view that a company's filing of a report or other material covered by this rule change through EDGAR will satisfy the company's obligation under the Commission's rules to file the material with the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, 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 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 person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-98-

18 and should be submitted by August 13, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Jonathan G. Katz,**

*Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

(Release No. 34-40212; File No. SR-OCC-98-02)

### **Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Clarifying Rules Regarding the Unavailability of Current Index Values**

July 15, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 20, 1998, The Options Clearing Corporation ("OCC") 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 primarily by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval.

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

The purpose of the proposed rule change is to clarify the application of OCC's by-laws relating to the unavailability or inaccuracy of current index values where there is an early closing of the primary market for the securities underlying an index option valued at the close.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B),

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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>7</sup> 17 CFR 240.19b-4.

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

and (C) below, of the most significant aspects of such statements.<sup>2</sup>

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

OCC's current by-laws relating to the unavailability or inaccuracy of current index values for stock index options and for flexibly structured index options denominated in foreign currencies ("FX flex index options") were instituted as a result of a 1994 incident when a delayed National Association of Securities Dealers Automated Quote System opening made it unclear when or if OCC would be able to obtain current index values for options valued at the opening.<sup>3</sup> OCC is now authorized to delay exercise settlements until either (i) the required current index value becomes available or (ii) OCC fixes an exercise settlement amount, which may be based on the closing index value for the preceding trading day.

These provisions were intended to apply where the required index value, whether opening or closing, was unavailable to OCC either because the market did not open on the relevant date or because the reporting authority had problems calculating or disseminating the required value. However, these provisions can be misinterpreted as authorizing OCC to fix an exercise settlement amount for index options valued at the close when the market closes early. OCC interprets the current language of the by-laws as referring to the actual close of trading, not the scheduled close. There is no reliable basis for estimating what the current index value would have been if the market had remained open until the normal closing time. Even when OCC has no alternative but to fix an exercise settlement amount, the by-laws expressly authorize it to base that amount on the reported index level at the close of trading on the last preceding trading day for which a closing index level was reported.

OCC believes that it is inappropriate for OCC to fix an exercise settlement amount if normal trading takes place with opening and closing current index values for a given day so long as it is possible to obtain the required value from the designated reporting authority. The proposed rule change eliminates any implications that the provisions give OCC the authority to fix an exercise

settlement amount in such circumstances.

OCC believes that the proposed rule change is consistent with Section 17A of the Act and the rules and regulations promulgated thereunder because it will facilitate the prompt and accurate settlement of transactions in index options and in FX flex index options.<sup>4</sup>

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

OCC 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*

Written comments relating to the proposed rule change have not been solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Section 17A(b)(3)(F)<sup>5</sup> requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that OCC's proposed rule change is consistent with OCC's obligations under Section 17A(b)(3)(F) because the proposal will clarify the application of OCC's by-laws relating to the unavailability or inaccuracy of current index values where there is an early closing of the primary market for the securities underlying an index option valued at the close. The Commission believes that this clarification should add more certainty to the settlement of index options. Therefore, this proposed rule change should facilitate the prompt and accurate clearance and settlement of securities transactions.

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 because accelerated approval will allow OCC to clarify its by-laws relating to exercise settlement procedures in an expedient fashion.

**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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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 OCC. All submissions should refer to the File No. SR-OCC-98-02 and should be submitted by August 24, 1998.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-98-02) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Jonathan G. Katz,**  
Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-40222; File No. SR-Phlx-98-19]

**Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to When a Security is Considered Open For Trading**

July 16, 1998.

**I. Introduction**

On May 1, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with 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 clarify when a security is considered open for trading. On May 26, 1998, the Phlx filed Amendment No. 1 to the

<sup>2</sup> The Commission has modified parts of these statements.

<sup>3</sup> Securities Exchange Act Release No. 37315 (June 17, 1996), 61 FR 32471 (ordering approving proposed rule change.)

<sup>4</sup> 15 U.S.C. 78q-1.

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

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