

number SR-NASD-98-57 and should be submitted by September 24, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 98-23771 Filed 9-2-98; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40370; File No. SR-Phlx-98-34]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Additional Participation in Wheel Trades Where the Enhanced Specialist Participation Applies

August 27, 1998.

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> notice is hereby given that on August 11, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange.<sup>3</sup> 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 Options Floor Procedure Advice F-24, AUTO-X Contra-Party Participation (The Wheel), to allow specialists an additional participation in Wheel trades where the Enhanced Specialist Participation applies, with unanimous consent of the Wheel participants in that option. Specifically, the Exchange proposes to add the proposed enhanced specialist participation to paragraph (e), stating with the unanimous consent of Wheel participants, the specialist shall receive a split of twice the contracts where the Enhanced Specialist Participation of

Rule 1014(g)(ii) applies. The text of the proposed rule change is set forth below. Proposed new language is in italics.

#### F-24 AUTO-X Contra-Party Participation (The Wheel)

(a)-(d) No change.

(e) Wheel Rotation/Assigning Contracts—AUTO-X participation shall be assigned to Wheel Participants on a rotating basis, beginning at a random place on the rotational Wheel each day from those participants signed-on in that listed option at the time. At a minimum, the Wheel shall rotate and assign contracts depending upon the size of the AUTO-X order, as follows:

1-10 contracts .....	Every 2 contracts.
11-25 contracts .....	Every 5 contracts.
26 and more .....	Every 10 contracts.

The Options Committee, or its designees, may approve a Wheel rotation in a size larger than the minimum stated above, if requested by the specialist and Wheel participants. However, the Wheel may not rotate in a size larger than ten contracts.

Each remaining portion shall be successively assigned to individual Wheel Participants on that same basis. The specialist shall receive the first execution of the day; thereafter, if four or less ROTs are participating on the Wheel, the specialist shall participate in a normal rotation. However, if an average of five to 15 ROTs have signed-on the Wheel, the specialist shall receive every fifth execution; if an average of 16 or more ROTs have signed on the Wheel, the specialist shall receive every tenth execution, unless Wheel participation falls below ten participants at any time, then the specialist shall automatically participate in a normal rotation.

*Exception to normal rotation: With the unanimous consent of Wheel participants in an option, the specialist shall receive twice the contracts where the Enhanced Specialist Participation of Rule 1014(g)(ii) applies. This exception shall apply for the Enhanced Specialist Participation pilot program period.*

(f) No change.

#### 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 aspect of such statements.

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

##### 1. Purpose

The Wheel is an automated mechanism for assigning trade participation among specialists and Registered Options Traders ("ROTs") on a rotating basis, as contra-side participants to AUTO-X orders. AUTO-X is the automatic execution feature of the Exchange's Automated Options Market ("AUTOM") system,<sup>4</sup> which provides customers with automatic executions of eligible option orders at displayed markets. The Exchange's detailed Wheel provisions appear as Advice F-24.<sup>5</sup> The purpose of the Wheel is to increase the efficiency of order execution through AUTO-X by including participating floor traders in the automated assignment of contra-parties to incoming AUTO-X orders. Thus, the Wheel is intended to make AUTO-X more efficient, as contra-side participation is assigned automatically, and no longer entered manually.

The Enhanced Specialist Participation is a pilot program whereby a specialist may select 50% of his/her issues for an enhanced split.<sup>6</sup> Pursuant to Phlx Rule 1014(g)(ii), the enhanced split applies where an equity option or index option specialist is on parity<sup>7</sup> with one or more controlled accounts for orders involving more than five contracts. Specifically, when such specialist is on parity with one controlled account, the specialist receives 60% of the contracts and the controlled account receives the remaining 40%; when a specialist is on parity with two controlled accounts, the specialist receives 40% of the contracts and each controlled account receives

<sup>4</sup> AUTOM is an electronic order routing system for option orders. See Phlx Rule 1080.

<sup>5</sup> See Securities Exchange Act Release No. 35033 (Nov. 30, 1994), 59 FR 63152 (Dec. 7, 1994) (order approving Advice F-24).

<sup>6</sup> Initially, the program was approved as a one-year pilot until August 26, 1995. See Securities Exchange Act Release No. 34606 (Aug. 26, 1994), 59 FR 45741 (Sept. 2, 1994). The pilot has subsequently been revised and extended and is currently scheduled to expire on December 31, 1998. See Securities Exchange Act Release Nos. 35028 (Nov. 30, 1994), 59 FR 63151 (Dec. 7, 1994); 35429 (Mar. 1, 1995), 60 FR 12802 (Mar. 8, 1995); 36122 (Aug. 18, 1995), 60 FR 44530 (Aug. 28, 1995); 37254 (Aug. 5, 1996), 61 FR 42080 (Aug. 13, 1996); and 38924 (Aug. 11, 1997), 62 FR 44160 (Aug. 19, 1997); and 39401 (Dec. 4, 1997), 62 FR 65300 (Dec. 11, 1997).

<sup>7</sup> Pursuant to Phlx Rule 1014(g)(i), a controlled account includes any account controlled by or under common control with a member broker-dealer.

<sup>16</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.

<sup>3</sup> On July 16, 1998, the Exchange filed a similar proposed rule change (File No. SR-Phlx-98-31). The Commission suggested that the Exchange make certain changes, and, rather than amend the filing, the Exchange determined to withdraw the filing and resubmit it. The Exchange withdrew SR-Phlx-98-31 on August 11, 1998.

30%; and when a specialist is on parity with three or more controlled accounts, the specialist is counted as two crowd participants for purposes of allocating the contracts.<sup>8</sup> In all of these situations, if a customer is on parity, the customer may not receive a lesser allotment than any other crowd participant, including the specialist.

The Phlx proposes to amend Advice F-24, AUTO-X Contra-Party Participation (the Wheel), to allow specialists an additional participation in Wheel trades where the Enhanced Specialist Participation pilot applies pursuant to Rule 1014. The proposed additional participation in Wheel trades would be in effect for the Enhanced Specialist Participation pilot period. For systems reasons, the additional participation would be in the form of a second sign-on for the Wheel,<sup>9</sup> as opposed to the 60%/40% two crowd participant split discussed above. The second sign-on is contingent upon unanimous consent of the Wheel participants in that option, which is intended to implement the proposal where the ROTs on the Wheel agree that more participation for the specialist and hence, less for the ROTs, is fair and appropriate. The Exchange has determined that Wheel participants, as opposed to the whole trading crowd, should consent because those market makers who do not choose to sign-on to the Wheel are not affected by the additional Wheel participation. The purpose of the proposal is to extend the enhanced specialist split to the Wheel. In adopting the enhanced specialist split, the Exchange identified the need to attract new specialist units as well as to retain and encourage current specialist units to vigorously trade existing options and aggressively seek and apply for newly allocated options.

## 2. Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>11</sup> in particular, in that it is designed to promote just and equitable principles of trade of trade, to prevent fraudulent and manipulative acts and practices, 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 believes that the proposal will serve to aid the Exchange in

attracting and retaining well-capitalized specialist units to the Exchange without unreasonably restraining competition or harming investors.

### *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*

Written comments on the proposed rule change were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from August 11, 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 business days prior to the filing date,<sup>12</sup> it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(e)(6) thereunder.<sup>14</sup> In approving this rule, the Commission notes that it has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

## 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 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 Phlx. All submissions should refer to File No. SR-Phlx-98-34 and should be submitted by September 24, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 98-23759 Filed 9-2-98; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40374; File No. SR-Phlx-98-18]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Options Floor Procedure Advice F-24, Auto-X Contra Party Participation (the Wheel)**

August 27, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 5, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 Phlx proposes to amend Options Floor Procedure Advice F-24 ("Advice F-24"), Auto-X Contra Party Participation (the Wheel), paragraph (d), to state that, in extraordinary circumstances, two Floor Officials may require all assigned Registered Options Traders ("ROTs") who signed onto the Wheel at any time during the last thirty business days to participate on the Wheel. Additionally, the Phlx is

<sup>8</sup> "Parity" refers to time parity (i.e., orders entered simultaneously). See Phlx Rules 119, 1014(g)(i).

<sup>9</sup> The Wheel has no built-in limitation as to the number of floor traders who may be signed on.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> The Exchange provided advance written notice of its intent to file proposed rule change SR-Phlx-98-31, which proposed change it subsequently withdrew and replaced with this proposed rule change. See note 3, *supra*. The Commission accepts the advance notice provided for SR-Phlx-98-31 as advance notice of this proposed rule change.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(e)(6).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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