

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40570; File No. SR-NASD-98-76]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Standards for Individual Correspondence

October 19, 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 October 9, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary NASD Regulation, Inc. ("NASD Regulation"), 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 NASD Regulation. 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

NASD Regulation is proposing to change the effective date for its members of SR-NASD-98-29, which amended Rule 2210 of the Conduct Rules of the NASD to require that written or electronic communications prepared for a single customer be subject to the general standards and those specific standards of Rule 2210 that prohibit misleading statements.

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

In its filing with the Commission, NASD Regulation 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. NASD Regulation 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

SR-NASD-9-29 and amendments Nos. 1 and 2 thereto, were approved by the SEC on August 26, 1998. In SR-NASD-98-29, the NASD requested that the amendments be made effective within 45 days of Commission approval. Because the NASD believes that members may require more time to adjust their procedures to comply with the amendments, the staff proposes to change the effective date of the amendments for NASD members. Pursuant to this proposed rule change, the NASD will make the amendments effective on November 16, 1998. This effective date will be announced to member firms in a NASD Notice to Members published in October, 1998.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,³ which requires among other things, that the Association adopt and amend its rules to promote just and equitable principles of trade, and generally provide for the protection of investors and the public interest.

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

NASD Regulation does not believe that the proposed rule change will result in 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 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

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 NASD and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act⁴ and subparagraph (e)(1) of Rule 19b-4 thereunder.⁵

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.

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 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 NASD. All submissions should refer to File No. SR-NASD-98-76 and should be submitted by November 16, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

[FR Doc. 98-28596 Filed 10-23-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40565; File No. SR-Phlx-98-30]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Thereto Relating to the Reduction in the Value of the National Over-the-Counter Index

October 16, 1998.

I. Introduction

On July 16, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78o-3(b)(6).

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(e)(1).

⁶ 17 CFR 200.30-3(a)(12).

19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to reduce the value of its National Over-the-Counter Index ("Index") option ("XOC") to one-fourth its present value.

The proposed rule change was published for comment in the **Federal Register** on August 31, 1998.³ No comments were received on the proposal. On October 7, 1998, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.⁴ This order approves the proposal and grants accelerated approval to Amendment No. 1 thereto. The Commission is also soliciting comments on Amendment No. 1 to the proposed rule change.

II. Description of the Proposal

The Index is a capitalization-weighted market index composed of the 100 largest capitalized stocks traded over-the-counter. The Exchange began trading the XOC in 1985.⁵ The Index was created with a value of 150 on its base date of September 28, 1984, which rose to 548 in June 1994, 700 in June 1995 and 868 in September 1995. In December 1995, the Exchange split the Index to one-half its value.⁶ According to the Exchange, as of June 10, 1998, the value of the index was 869.22. As a result of the increase in value of the Index, the premium for the XOC options has also risen.

In response to these increases in the value of the Index and the XOC, the Exchange proposes to conduct a "four-for-one split" of the Index, such that the value would be reduced to one-quarter to its present value. In order to account for the split, the number of XOC contracts will be quadrupled, such that for each XOC contract currently held, the holder will receive four contracts at

the reduced value, with a strike price one-quarter of the current strike price. For instance, the holder of an XOC 800 call will receive four XOC 200 calls.

In addition to the strike price being reduced to one-quarter of its current value, the position and exercise limits applicable to the XOC will be temporarily quadrupled, from 25,000 contracts to 100,000 contracts. The position and exercise limits will return to the current level of 25,000 contracts in June 1999, the last outstanding expiration for the existing contracts now trading. The Exchange believes that this procedure is similar to the one employed respecting equity options where the underlying security is subject to a four-for-one split. The other contract specifications for the XOC will remain unchanged and the trading symbol will remain XOC (plus any necessary wrap symbols). The Exchange will list strike prices surrounding the new, lower index value, pursuant to Rule 1101A.⁷ Notice of the strike price changes, as well as the effective date and position limit changes will be made by way of an Exchange memorandum to the membership. In addition, Phlx will notify members that their positions will have to be reduced from 100,000 contracts to 25,000 contracts one month prior to the reduction in June 1999.⁸

According to the Exchange, the purpose of the proposal is to attract additional liquidity to the product in those series that public customers are most interested in trading. For example, according to the Phlx, on June 11, 1998, the September 870 calls were quoted at 51-52 while the puts were quoted at 40-41. The Exchange believes that certain investors and traders may be impeded from trading XOC options at these current levels. A four-for-one split would serve to reduce the price of the aforementioned options to approximately 12³/₄-13 for the calls and 10-10¹/₄ for the puts, thus making them more accessible to the retail investor. The reduced premium value should, in the Phlx's view, encourage additional investor interest.

The Phlx believes the XOC options provide an important opportunity for investors to hedge and speculate upon the market risk associated with the underlying over-the-counter stocks. By reducing the value of the Index, such investors will be able to utilize this trading vehicle, while extending a smaller outlay of capital. The Exchange

believes this should attract additional investors, and in turn, create a more attractive and liquid trading environment.

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,⁹ and in particular, the requirements of Section 6(b)(5) of the Act.¹⁰ Specifically, the Commission believes the proposed rule change is consistent with the Section 6(b)(5) requirement to remove impediments to a free and open securities market. By reducing the value of the Index, the Commission believes that a broader range of investors will be provided a means of hedging their exposure to the market risk associated with the underlying over-the-counter stocks. In addition, the reduced value of the Index could attract additional investors, and create a more active and liquid trading market.

The Commission believes that quadrupling the Index's divisor should not have an adverse market impact in XOC options or increase manipulation concerns. The Index will continue to be comprised of the same stocks with the same weightings and will be calculated in the same manner (except for the change in the divisor). Accordingly, the dollar value of the XOC options contracts an investor holds and controls will not change as a result of the reduced value of the index. In addition, the Exchange's surveillance procedures will remain the same.

The Commission also believes that the Phlx's position and exercise limits and strike price adjustments are appropriate and consistent with the Act. In this regard, the Commission notes that the position and exercise limits and strike price adjustments are similar to the approach used to adjust outstanding options on stocks that have undergone stock splits as well as reductions in the value of other indexes.¹¹ Moreover, the Commission believes that the temporary quadrupling of the position and exercise

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 40355 (August 24, 1998) 63 FR 46270 (August 31, 1998).

⁴ Letter from Nandita Yagnik, Attorney, Phlx to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, dated October 6, 1998 ("Amendment No. 1"). In Amendment No. 1, the Exchange agreed to give additional notice to members of the reversion to original position and exercise limits of 25,000 contracts, one month before the last expiration for existing contracts which at the time of Amendment No. 1 was March 1999. Currently however, the last expiration for existing contracts is June 1999. Accordingly, the Exchange will give the additional notice to members in May 1999. Telephone call between Nandita Yagnik, Attorney, Phlx and Kelly McCormick, Attorney, Division of Market Regulation, Commission, October 16, 1998.

⁵ Securities Exchange Act Release No. 22044 (May 17, 1985), 50 FR 21532 (May 24, 1985).

⁶ Securities Exchange Act Release No. 36577 (December 12, 1995), 60 FR 65705 (December 20, 1995).

⁷ Specifically, because the Index value will be less than 500, the applicable strike price interval will be \$5 in the first four months and \$25 in the fifth month. Phlx Rule 1101A(a).

⁸ See Amendment No. 1, supra note 4.

⁹ In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ See, Securities Exchange Act Release No. 38415 (March 18, 1997), 62 FR 14177 (March 25, 1997) (reducing the value of the Super Cap Index); Securities Exchange Act Release No. 36577 (December 12, 1995), 60 FR 65705 (December 20, 1995) (reducing the value of the National Over-the-Counter Index); Securities Exchange Act Release No. 35999 (July 20, 1995), 60 FR 38387 (July 26, 1995) (reducing the value of the Semiconductor Index).

limits are reasonable in light of the fact that the size of the options contracts will be reduced to one-quarter of their present value and as a result the number of outstanding options contracts an investor holds will be quadrupled. The temporary increase of the position and exercise limits, therefore, will ensure that investors will not potentially be in violation of the lower existing position and exercise limits while permitting market participants to maintain, after the split of the XOC, their current level of investment in the options contracts. As noted above, the increased position and exercise limits of 100,000 contracts will revert to their original limit of 25,000 in June 1999, the last outstanding expiration for contracts now trading.

Finally, the Commission notes that the Exchange has agreed able to provide adequate notice to the market. The Exchange shall send prior notice to its membership setting forth the changes in the Index value, position limits, strike prices and effective date. This notice should facilitate the transition and prevent investor confusion. Moreover, the Exchange has agreed to issue a second notice to members one month prior to the June 1999 expiration reminding members that the position and exercise limits will revert to their original levels of 25,000 contracts.¹² The Commission believes that the second notice should provide adequate time for holders of all open positions in XOC options to adjust their holdings accordingly.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after publication in the **Federal Register**. The Commission notes that Amendment No. 1 merely memorializes the notification procedures that the Exchange has agreed to follow for the notification of members. The Commission believes that Amendment No. 1 should ensure that market participants will receive adequate notice prior to the eventual reversion to the original position and exercise limits. Accordingly, the Commission finds that good cause exists, consistent with Section 6(b)(5) of the Act,¹³ and Section 19(b) of the Act¹⁴ to accelerate approval of Amendment No. 1 to the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No.

1, including whether Amendment No. 1 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 at 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-98-30 and should be submitted by November 16, 1998.

V. Conclusion

For the foregoing reasons, the Commission finds that the Exchange's proposal to reduce the value of the Index to one-quarter of its present value is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁵ that the amended proposed rule change (SR-Phlx-98-30) is approved.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3135; Amendment #2]

State of Florida

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on September 25, 1998 and continuing through October 7, 1998.

All other information remains the same, i.e., the deadline for filing applications for physical damage is

November 27, 1998 and for economic injury the termination date is June 28, 1999.

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

Dated: October 16, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98-28561 Filed 10-23-98; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3133; Amendment #3]

State of Louisiana

In accordance with a notice from the Federal Emergency Management Agency dated October 8, 1998, the above-numbered Declaration is hereby amended to include the Parishes of Ascension, Assumption, and St. James, Louisiana as a disaster area due to damages caused by Tropical Storm Frances and Hurricane Georges.

In addition, applications for economic injury loans from small businesses located in the following contiguous parishes may be filed until the specified date at the previously designated location: Iberia, Iberville, and St. Martin. Any parishes contiguous to the above-named primary parishes have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is November 22, 1998 and for economic injury the termination date is June 23, 1999.

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

Dated: October 16, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98-28562 Filed 10-23-98; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3139; Amendment #2]

State of Mississippi

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to include Covington County, Mississippi as a disaster area due to damages caused by Hurricane Georges.

In addition, applications for economic injury loans from small businesses

¹² Amendment No. 1.

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ 15 U.S.C. 78s(b).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30-3(a)(12).