

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42151; File No. SR-PHLX-99-38]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Removal of Certain Printers From the Equity Floor

November 17, 1999.

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 September 10, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change. The Exchange submitted Amendment No. 1 to its proposal on October 22, 1999.<sup>3</sup> The proposed rule change, as amended, is 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, as amended, from interested persons.

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

The Phlx proposes to amend Equity Floor Procedure Advice E-5 ("Advice E-5"), Clocked Tickets; Phlx Rule 206, Written Orders-Day Orders; and Phlx Rule 216, Records to be kept. The amendments are necessary to allow for the removal from the Equity Floor of certain printers that generate PACE-delivered order tickets because the printers will not be Year 2000 compliant.<sup>4</sup> Therefore, the amended Advice E-5 would eliminate the requirement that specialists record the time of execution of PACE-delivered orders received on the floor from these printers. Corresponding amendments will be made to Phlx Rules 206 and 216 to address similar issues.

In addition, the proposed rule change to Advice E-5 would require specialists to record the time of receipt of hand-

held orders to be placed on the specialist's book on the front of the ticket in accordance with Phlx Rule 206.<sup>5</sup> Fines for violations of Advice E-5, which have not been updated for ten years, are also being increased to better reflect the seriousness of the violation.<sup>6</sup> Thus the Exchange is also amending its minor rule plan.

The text of the proposed rule language follows. New text is italicized and deleted text is bracketed.

#### E-5 Clocked Tickets

Floor brokers are responsible for recording the time of receipt on the front of the ticket for each order received on the floor and the time of execution on the reverse side of the ticket for each order they are representing in the crowd at the time of execution.

Specialists are responsible for *recording time of receipt of hand-held (non-PACE delivered) orders to be placed on the Specialists's book on the front of the ticket, and for recording the time of execution on the reverse side of the ticket for each order executed off their book for all hand-held (non-PACE delivered) orders.*

FINE SCHEDULE (Implemented on a one year running calendar basis)

#### E-5

1st Occurrence \$[50.00] *100.00*  
2nd Occurrence \$[100.00] *250.00*  
3rd Occurrence \$[200.00] *500.00*  
4th and thereunder Sanction is discretionary with Business Conduct Committee

All *hand-held (non-PACE-delivered)* orders given to a specialist shall be in writing and shall be timed by him when received and filed in his book. They shall be good for the day only unless otherwise marked.

#### Rule 216

Every specialist shall keep a legible record of all orders placed with him in the securities in which he is registered or trading securities pursuant to Rule 233 as a specialist (*except PACE-delivered orders for which no written record is generated*) and all of all executions, modifications and cancellations of (such) orders, and shall preserve such records and all memoranda relating thereto in accordance with Regulation 240.17a-4 of the Securities and Exchange Commission.

<sup>5</sup> See Amendment No. 1, *supra* note 3.

<sup>6</sup> The Phlx's minor rule violation enforcement and reporting plan, codified in Phlx Rule 970, contains floor procedure advices with accompanying fine schedules.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and the 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

The purpose of the amendments to Advice E-5 and Phlx Rules 206 and 216 is to allow for the removal of the Designated Automatic Routing to Terminal System ("DARTS") printers from the Equity Floor without causing the specialists and floor brokers to be in violation of Advice E-5 or Phlx Rules 206 and 216.<sup>7</sup>

Currently orders sent to the equity floor through the PACE System generate a hard copy ticket, which is printed on a DARTS printer. These tickets provide hard copy records of time of receipt of the order. In addition, specialists stamp the time of execution of the order on the reverse side of the ticket on all manual market and limit orders. However, the system that supports the DARTS printers is not, and cannot become, Year 2000 compliant. Therefore, the DARTS printers will be removed from the Equity Floor. The information that is produced by the DARTS printer will be maintained electronically for the appropriate time periods mandated by the books and records requirements of the Commission.

Advice E-5 requires floor brokers to record, by time stamp, the time of receipt of the order on the front of the ticket and the time of execution of the order on the reverse side of the ticket. Specialists also are required to record the time of execution of orders executed off the specialist's book. In addition, Phlx Rule 206 requires, in part, that all orders given to a specialist be in writing and timed by him when received. Phlx Rule 216 requires, in part, that every specialist keep a record of all orders placed with him and all executions of such orders. In addition, Phlx Rule 216

<sup>7</sup> This proposal affects PACE order tickets only, not telephone orders/manual tickets or production of hard copy reports.

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

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

<sup>3</sup> In Amendment No. 1, the Exchange designated the proposal as a section 19(b)(2) filing, revised its proposed language under Advice E-5 to better reflect its rules, and clarified that the amendment to Advice E-5 merely reflects its current rules. See Letter from Cynthia Hoekstra, Counsel, Phlx, to Nancy Sanow, Senior Special Counsel, Division of Market Regulation, Commission, dated October 21, 1999 ("Amendment No. 1").

<sup>4</sup> PACE is the Exchange's automated order routing and execution system on the equity trading floor.

requires the specialist to preserve such records in accordance with Rule 17a-4.

With no hard copy tickets recording order receipt and execution time data, floor brokers and specialists on the Equity Floor could be in violation of Advice E-5 and Rule 206 each time an order is received and executed on PACE. Without the DARTS printer tickets, specialists would be in violation of Rule 216 if they did not retain the DARTS printer tickets. Therefore, as a matter of practicality, it is necessary to eliminate the hard copy recording and document maintenance requirements for trades for which no hard copy ticket is generated. As stated above, the information that is produced by the DARTS printer will be maintained electronically for the appropriate time periods mandated by the books and requirements of the Commission. The removal of the hard copy tickets will improve trade-processing efficiencies and reduce the amount of paper that is used on the trading floor.

In addition, the proposed change to Advice E-5 would require specialists to record the time of receipt of hand-held orders to be placed on the specialist's book on the front of the ticket in accordance with Phlx Rule 206.<sup>8</sup> The fine schedule for violations of Advice E-5 has not been updated for ten years and will be increased to better reflect the seriousness of the violation.

#### Statutory Basis

For these reasons, the Exchange believes that the proposal to amend Advice E-5 and Phlx Rules 206 and 216 is consistent with Section 6 of the Act,<sup>9</sup> in general, and with Section 6(b)(5),<sup>10</sup> in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market. In addition, these changes will eliminate equipment that will not be Year 2000 compliant, thereby protecting investors and the public interest.

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

The Exchange does not believe that the proposed rule 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 has neither solicited nor received comments on the proposed rule 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 self-regulatory organization 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, including whether the proposed rule change, as amended, 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 20549-0609. 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 in Washington, DC. 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-99-38 and should be submitted by December 15, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42143; File No. SR-Phlx-99-22]

#### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Deleting Rules Adopted When Phlx Dell Options were Traded on Amex Technology**

November 16, 1999.

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 November 9, 1999, 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 self-regulatory organization. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> rendering the proposal effective upon receipt of this filing by the Commission.<sup>4</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 delete the following rules related to using American Stock Exchange LLC ("Amex") technology for the trading of Phlx Dell options: Rule 1051, Commentary .01; Rule 1052, Commentary .01; Rule 1053, Commentary .01; and Rule 1054, Commentary .01. The Exchange also proposes to modify Rule 1080, Commentary .03 to refer to Phlx options that were traded using Amex technology.

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> The Exchange has represented that the proposed rule change: (i) will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition; and (iii) will not become operative for 30 days after the date of this filing, unless otherwise accelerated by the Commission. The Exchange also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b-4(f)(6) under the Act. *Id.*

<sup>8</sup> See Amendment No. 1, *supra* note 3.

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 17 CFR 200.30-3(a)(12).