

of the securities needed to be deposited have not been received by the Fund.<sup>15</sup> This listing requirement should ensure that there exists sufficient supply of the underlying Fund Shares so that a short call writer, for example, will have the ability to secure delivery of the Fund Shares upon exercise of the option.

The Commission believes the Phlx has adequately addressed potential concerns about the ability to produce Fund Shares upon exercise of the option through the adoption of the listing standards set forth above. In particular, options listed pursuant to the uniform options listing standards will have to meet the options maintenance listing standards that require, among other things, that a minimum number of Fund Shares be outstanding to continue trading the options.<sup>16</sup> The alternative listing criteria, noted above, should also help to ensure that the underlying Fund Shares will be available upon exercise by requiring the Fund to allow market participants to create Fund Shares even though some or all of the necessary securities needed to be deposited are not available.<sup>17</sup> Although there is no absolute assurance that market participants will go ahead and create Fund Shares in the event a short call writer needs to purchase Fund Shares to meet an exercise notice, it is likely that arbitrage opportunities will create an incentive to do so. Further, in the event there are not enough Fund Shares to meet exercise requirements, as with other physically-settled equity options, the Options Clearing Corporation has rules that would apply to such situations.

Second, the Commission believes that the surveillance standard developed by the Phlx for options on Fund Shares is adequate to address the concerns associated with the listing and trading of such securities. Specifically, the Phlx has proposed that: (1) Any Fund Share with non-US stocks in the underlying index or portfolio that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index or portfolio; and (3) stocks for which the

primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index or portfolio.

As a general matter, the Commission believes that comprehensive surveillance agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the content of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions. In evaluating the current proposal, the Commission believes that requiring comprehensive surveillance agreements to be in place between the Phlx and the primary markets for foreign securities that comprise 50% or more of the weight of the underlying index or portfolio upon which Fund Shares are based, as well as the other conditions discussed above, provides an adequate mechanism for the exchange of surveillance sharing information necessary to detect and deter possible market manipulations. Although the Commission recognizes that up to 50% of the Portfolio's value may not be covered by comprehensive surveillance agreements, the other requirements will ensure that a significant percentage of the portfolio is not made up of securities from uncovered countries. Further, as to the domestically-traded Fund Shares themselves and the domestic stocks in the underlying index or portfolio upon which Fund Shares are based, the Intermarket Surveillance Group Agreement will be applicable to the trading of options on Fund Shares.

Finally, the Commission believes that it is appropriate to require minimum margin of 100% of the current market value of the option plus 15% of the market value of the underlying security value ("broad-based margin") for options on Fund Shares based on a broad-based index or portfolio and for options on Fund Shares which have been approved to date. Moreover, the Commission believes that requiring minimum margin of 100% of the current market value of the option plus 20% of the market value of the underlying security value ("narrow-based margin") for options on Fund Shares based on a narrow-based index or portfolio is appropriate. The Commission notes that these margin requirements for options on Exchange-Traded Fund Shares are comparable to margin requirements that currently apply to broad-based and narrow-based index options.

The Commission finds good cause for approving the proposed rule change (SR-Phlx-00-107), as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the proposed rule change is based on Amex Rules 915 and 916, which the Commission approved previously.<sup>18</sup> The Commission also observes that the proposed rule change concerns issues that previously have been the subject of a full comment period pursuant to section 19(b) of the Act.<sup>19</sup> The Commission does not believe that the proposed rule change raises novel regulatory issues that were not addressed in the previous filings. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act, to approve the amended proposal on an accelerated basis.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>20</sup> that the proposed rule change (SR-Phlx-00-107), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 01-3341 Filed 2-8-01; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43927; File No. SR-PHLX-01-07]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to an Interpretation of Phlx Rule 237 Governing the eVWAP Morning Session

February 5, 2001.

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 January 11, 2001, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described

<sup>15</sup> This assumes that the authorized creation participant has undertaken to deliver the shares as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund which underlies the option, as described in the Fund prospectus.

<sup>16</sup> See supra note 6.

<sup>17</sup> See supra note 16.

<sup>18</sup> See Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998) (SR-Amex-96-44).

<sup>19</sup> 15 U.S.C. 78s(b).

<sup>20</sup> 15 U.S.C. 78s(b)(2).

<sup>21</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.

in Items I, II, and III below, which Items have been prepared by Phlx. Phlx filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(1) and (5) thereunder.<sup>4</sup>

Pursuant to Rule 19b-4(f)(1) and (5), Phlx has designated this proposal as one constituting an interpretation of the meaning and administration of existing Phlx Rule 237, and as one effecting a change in an existing order-entry or trading system of the Phlx that does not: (1) Significantly affect the protection of investors or the public interest, (2) impose any significant burden on competition, or (3) significantly have the effect of limiting the access to or availability of the system. As such, the proposed rule change is immediately effective upon the Commission's receipt of this filing. 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**

Pursuant to Rule 19b-4 of the Act, Phlx is providing an interpretation to Phlx Rule 237, eVWAP Morning Session,<sup>5</sup> to include New York Stock Exchange, Inc. ("NYSE") Rule 127 transactions in the eVWAP calculation. NYSE Rule 127 transactions are block trades executed on the NYSE floor outside of the present quote and are denoted as "J trades" by the Securities Industry Automation Corporation.

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

In its filing with the Commission, Phlx 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. Nasdaq 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 proposed rule change is to interpret Phlx Rule 237 to include NYSE Rule 127 trades in the eVWAP price calculation. The eVWAP is a pre-opening order matching session for the electronic execution of large-sized stock orders at a standardized volume weighted average price ("eVWAP Price").

In accordance with Phlx Rule 237, the eVWAP Price is derived from all regular way trades (including sold sales and late sales) reported by the appropriate reporting authority from the opening of the regular trading session and printed prior to 4:15 p.m. EST. The calculation excludes NYSE Rule 127 trades that are block executed on the NYSE floor outside of the present quote. A number of eVWAP participants have requested of UTTC that these trades be included in the eVWAP calculation to the extent that such trades are regular way trades and are reported by the appropriate reporting authority before 4:15 p.m. EST. Upon review, the Exchange has interpreted Phlx Rule 237 to include these in the eVWAP Price calculation.<sup>6</sup> The Exchange included these trades in the calculation methodology beginning on Tuesday, January 16, 2001. UTTC endeavored to notify all enrolled eVWAP participants of this change by letter dated January 11, 2001.

The proposed rule change is consistent with Section 6(b) of the Act in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices and protect investors and the public interest by including NYSE Rule 127 trades in the eVWAP Price calculation.

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

Phlx does not believe that the proposed rule change will result in any burden on competition 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 were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>7</sup> of the Act and Rule 19b-4(f)(1) and (5)<sup>8</sup> thereunder in that it constitutes an interpretation of the meaning and administration of Phlx Rule 237, an existing rule governing operation of eVWAP, and a change in an existing order-entry or trading system of Phlx that does not: (1) Significantly affect the protection of investors of the public interest, (2) impose any significant burden on competition, or (3) significantly have the effect of limiting the access to or availability of the system. 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 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. Copies of such filing will also be available for inspection and copying at the principal office of Phlx. All submissions should refer to the number in the caption above and should be submitted by March 2, 2001.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(1) and (5).

<sup>5</sup> eVWAP was developed by Universal Trading Technologies Corporation ("UTTC"), and was approved by the Commission to operate as a facility of the Exchange. See Securities Exchange Act Release No. 41210 (March 24, 1999) (SR-Phlx-96-14). The Commission approved the facility to operate as pilot program until November 30, 2001. See Securities Exchange Act Release No. 43477 (October 30, 2000) (SR-Phlx-00-84).

<sup>6</sup> In a telephone conversation on January 29, 2001 between John Dayton, Esq., Exchange, and Heidi Pilpel, Special Counsel, Commission, the Exchange represented that the proposed interpretation will conform the value weighted average price calculation methodology used by UTTC to the value weighted average price calculation methodology used by other similar services.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(1) and (5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margared H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-3362 Filed 2-8-01; 8:45 am]

**BILLING CODE 8010-01-M**

## **SMALL BUSINESS ADMINISTRATION**

### **[Declaration of Economic Injury Disaster #9K67]**

#### **Commonwealth of Massachusetts (And Contiguous Counties in Connecticut, New York and Vermont)**

Berkshire County and the contiguous counties of Franklin, Hampden, and Hampshire in the Commonwealth of Massachusetts; Litchfield in Connecticut; Columbia and Rensselaer in New York; and Bennington in Vermont constitute an economic injury disaster loan area as a result of a fire that occurred on January 17, 2001 in the Town of Great Barrington. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on November 2, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd, South 3rd Floor, Niagara Falls, NY 14303.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent. The numbers assigned for economic injury for this disaster are 9K6700 for Massachusetts; 9K6800 for Connecticut; 9K6900 for New York; and 9K7000 for Vermont.

(Catalog of Federal Domestic Assistance Program No. 59002)

Date: February 2, 2001.

**Kristine Marcy,**

*Acting Administrator.*

[FR Doc. 01-3403 Filed 2-8-01; 8:45 am]

**BILLING CODE 8025-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **[Declaration of Disaster #3317; Amendment #3]**

#### **State of Texas**

In accordance with a notice received from the Federal Emergency Management Agency, dated January 19, 2001, the above-numbered Declaration is hereby amended to include Lamar County as a disaster area due to

damages caused by a severe winter ice storm beginning on December 12, 2000 and continuing through January 15, 2001.

Any counties contiguous to the above named primary county and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is March 9, 2001 and for economic injury the deadline is October 9, 2001.

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

Dated: January 30, 2001.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 01-3401 Filed 2-8-01; 8:45 am]

**BILLING CODE 8025-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **[Declaration of Disaster #3317; Amendment #4]**

#### **State of Texas**

In accordance with a notice received from the Federal Emergency Management Agency, dated January 30, 2001, the above-numbered Declaration is hereby amended to include Titus County as a disaster area due to damages caused by a severe winter ice storm beginning on December 12, 2000 and continuing through January 15, 2001.

In addition, applications for economic injury loans from small businesses located in Camp County, Texas may be filed until the specified date at the previously designated location.

Any counties contiguous to the above named primary county and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is March 9, 2001 and for economic injury the deadline is October 9, 2001.

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

Dated: February 1, 2001.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 01-3402 Filed 2-8-01; 8:45 am]

**BILLING CODE 8025-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **Region IV District Advisory Council Meeting; Public Meeting**

The U.S. Small Business Administration, Georgia District Office

Advisory Council, will hold a public meeting on Friday, March 9, 2001 at 9 a.m., at the Columbus Hilton, 800 Front Avenue, Columbus, Georgia 31901; to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information write or call Mr. Charles E. Anderson, District Director, U.S. Small Business Administration, 233 Peachtree Street, NE, Suite 1900, Atlanta, Georgia 30303; telephone (404) 331-0266.

**Nancyellen Gentile,**

*Committee Management Officer.*

[FR Doc. 01-3404 Filed 2-8-01; 8:45 am]

**BILLING CODE 8025-01-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

**[USCG-2001-8662]**

#### **National Preparedness for Response Exercise Program (PREP)**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Request for comments on PREP triennial exercise schedule for 2001, 2002, and 2003.

**SUMMARY:** The Coast Guard, the Environmental Protection Agency (EPA), the Research and Special Programs Administration (RSPA) and the Minerals Management Service (MMS), in concert with the states, the oil industry and concerned citizens, developed the Preparedness for Response Exercise Program (PREP). This notice announces the PREP triennial cycle, 2001-2003, and requests comments from the public and maximum industry and government participation in the listed exercises.

**DATES:** Comments and related material must reach the Docket Management Facility on or before April 10, 2001.

**ADDRESSES:** To make sure your comments and related material are not entered twice in the docket, please submit them by only one of the following methods:

(1) By mail to the Docket Management Facility, (USCG-2001-8662), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By hand to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

<sup>9</sup> 17 CFR 200.30-3(a)(12).