

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48490; File No. SR-Phlx-2003-64]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Program to Deploy the Options Floor Broker Management System

September 12, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on September 12, 2003, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") 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 the Phlx. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> and paragraph (f)(6) of Rule 19b-4 under the Act,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission.<sup>5</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 extend its pilot program pertaining to the Options Floor Broker Management System (the "System") until November 14, 2003.<sup>6</sup>

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

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

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

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

<sup>5</sup> The Exchange has requested that the Commission waive both the five-day pre-filing notification requirement and the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> On July 31, 2003, the Exchange filed a proposed rule change to implement a pilot program to deploy the Exchange's new System. The proposed rule change was noticed, and accelerated approval was granted thereto, on July 31, 2003. The pilot was scheduled to expire on August 29, 2003. See Securities Exchange Act Release No. 48266 (July 31, 2003), 68 FR 152 (August 7, 2003) (SR-Phlx-2003-56). On August 29, the Commission extended the pilot. The pilot is currently scheduled to expire on September 12, 2003. See Securities Exchange Act Release No. 48425 (August 29, 2003), FR 68 53210 (September 9, 2003) (SR-Phlx-2003-60). The Exchange has also filed for permanent approval of the proposed rules. See Securities Exchange Act Release No. 48265 (July 31, 2003), 68 FR 47137 (August 7, 2003) (SR-Phlx-2003-40). The Exchange acknowledges that SR-Phlx-2003-40 and Amendment No. 1 thereto are subject to public

The System is a new component of the Exchange's Automated Options Market (AUTOM) and Automatic Execution (AUTO-X) System.<sup>7</sup>

The text of the proposal rule change is set forth below. New text is in *italics*; deletions are in *brackets*.

\* \* \* \* \*

#### Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X)

Rule 1080. (a)-(j) No change.

Commentary:

.01—.05 No change.

.06 Options Floor Broker Management System. The Options Floor Broker Management System is a component of AUTOM designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. The Options Floor Broker Management System also is designed to establish an electronic audit trail for options orders represented and executed by Floor Brokers on the Exchange, such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations and transactions on the Exchange, beginning with the receipt of an order by the Exchange, and further documenting the life of the order through the process of execution, partial execution, or cancellation of that order. The Exchange will begin deployment of the Options Floor Broker Management System on July 31, 2003, with floor-wide deployment to be completed not later than [September 12] *November 14, 2003*.

\* \* \* \* \*

#### 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 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

comment, which may result in amendments to the proposed rules.

<sup>7</sup> AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO-X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. See Exchange Rule 1080.

may be examined at the places specified in Item IV below. The Phlx 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

The purpose of the proposed rule change is to extend the effectiveness of the rules governing the System beyond the current effective date of September 12, 2003,<sup>8</sup> in order to continue to have rules in place concerning the System and to ensure that Floor Brokers using the System during the continuing deployment will not be in violation of current Exchange rules regarding ticket marking requirements.

The System is designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. Floor Brokers or their employees access the System through an electronic Exchange-provided handheld device on which they have the ability to enter the required information as set forth in Phlx Rule 1063(e), either from their respective posts on the options trading floor or in the trading crowd. The System will eventually replace the Exchange's current Floor Broker Order Entry System ("FBOE"),<sup>9</sup> as part of a roll-out of the new System floor-wide.

All of the rules pertaining to the System adopted in July and effective through September 12<sup>10</sup> are proposed to be extended until November 14, 2003, including: Phlx Rules 1014(g), 1015, 1051, 1063, 1064, and 1080.06, as well as Option Floor Procedure Advices ("Advice") A-11, B-6, B-8, C-2, C-3, F-1, F-2, and F-4. In addition to extending the effective date of the rules, this proposal also amends Phlx Rule 1080, Commentary .06 to state that the

<sup>8</sup> Telephone conversation between Rick Rudolph, Director and Counsel, Phlx, and Jennifer Colihan, Special Counsel, Division of Market Regulation ("Division"), Commission on September 12, 2003. During this conversation, the Exchange clarified the current effective date of the pilot.

<sup>9</sup> See Securities Exchange Act Release No. 41524 (June 14, 1999), 64 FR 33127 (June 21, 1999) (SR-Phlx-99-11). The FBOE, a component of AUTOM, currently provides a means for (but does not require) Floor Brokers to route eligible orders to the specialist's post, consistent with the order delivery criteria of the AUTOM System set forth in Exchange Rule 1080(b). The new System would include the same functionality as the FBOE, in addition to providing an electronic audit trail for non-electronic orders received by Floor Brokers by way of the entry of the required information in proposed Rule 1063(e).

<sup>10</sup> See note 6, *supra*.

Exchange will complete deployment of the System by November 14, 2003.<sup>11</sup>

The Exchange believes that the System will enable Floor Brokers to handle orders they represent more efficiently, and will further enable the Exchange to comply with the audit trail requirement for non-electronic orders required under the Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions.<sup>12</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</sup> in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest, by providing a System that enables Floor Brokers to handle orders they represent more efficiently, while enabling the Exchange to comply with the requirement in the Order to provide an electronic audit trail for non-electronic orders entered on the Exchange.

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

The Exchange does not believe that the proposed rule change 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*

No written comments were either solicited or received.

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

Because the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and

(iii) does not become operative for 30 days (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) after the date of the filing, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup> 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.

The Commission believes that it is consistent with the protection of investors and the public interest to waive the five-day pre-filing notice and 30-day operative date to allow the System and rules to continue on a pilot basis without interruption until November 14, 2003.<sup>17</sup>

## 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 20549-0609. 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 the Phlx. All submissions should refer to File No. SR-Phlx-2003-64 and should be submitted by October 10, 2003.

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 03-23950 Filed 9-18-03; 8:45 am]

BILLING CODE 8010-01-P

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Economic Injury Disaster #9W74]

#### State of Montana; (Amendment #1)

The above numbered declaration is hereby amended to include Beaverhead, Granite, Park, Ravalli, Stillwater and Sweet Grass Counties in the State of Montana as an economic injury disaster area due to the effects of the forest fires that began on July 23, 2003, and continue to burn.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Carbon, Deer Lodge, Gallatin, Golden Valley, Madison, Silver Bow, Wheatland and Yellowstone Counties in the State of Montana; Park County in the State of Wyoming; and Clark, Fremont, Idaho and Lemhi Counties in the State of Idaho may be filed until the specified date at the previously designated location.

The number assigned for economic injury is 9W9000 for Wyoming.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is May 26, 2004.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: September 11, 2003.

**Hector V. Barreto,**

*Administrator.*

[FR Doc. 03-23977 Filed 9-18-03; 8:45 am]

BILLING CODE 8025-01-P

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #P016]

#### State of New Hampshire

As a result of the President's major disaster declaration for Public Assistance on September 12, 2003 the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a governmental nature. I find that Cheshire and Sullivan Counties in the State of New Hampshire constitute a

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>11</sup> Telephone conversation between Rick Rudolph, Director and Counsel, Phlx, and Jennifer Colihan, Special Counsel, Division, Commission on September 12, 2003. During this conversation, the Exchange clarified the current effective date of the pilot, the date for the proposed extension of the pilot, and the date on which deployment of the system will be completed.

<sup>12</sup> See Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3-10282.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).