

believes that such information barrier procedures will address the unauthorized transfer and misuse of material, non-public information.

Lastly, the Exchange has represented pursuant to Rule 10A-3 of the Act³⁶ and Section 3 of the Sarbanes-Oxley Act of 2002,³⁷ that it will prohibit the initial or continued listing of any security of an issuer that is not in compliance with the requirements set forth therein.

F. Scope of the Commission's Order

The Commission is approving the Exchange's proposed listing and trading standards for the index-linked exchangeable notes as discussed herein. Index-linked exchangeable notes addressed in this order can be listed pursuant to Rule 19b-4(e)³⁸ if they meet the standards discussed above in the Exchange rules. The Commission notes that with respect to any future rules adopted by the Exchange pursuant to Rule 19b-4(e),³⁹ the Exchange has indicated that in its Section 19(b)(2) filings to adopt such new rules, it will state and discuss whether or not it proposes to apply the new rule standards to index-linked exchangeable notes.

G. Accelerated Approval

The Commission finds good cause for approving the proposal, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The proposal establishes listing and trading standards for a new product, index-linked exchangeable notes. Granting accelerated approval will allow the Exchange to immediately begin listing and trading series of index-linked exchangeable notes under these new standards. While the structure of the product is different from those previously reviewed by the Commission, the Exchange proposes to apply existing criteria used for other index related products. In addition, the Commission has approved the trading of identical products on the Amex, Phlx, and CBOE.⁴⁰ Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5)

and 19(b) of the Act,⁴¹ to approve the proposed rule change, as amended, on an accelerated basis.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁴² that the proposed rule change, as amended, (SR-PCX-2004-01) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-8265 Filed 4-12-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49523; File No. SR-Phlx-2003-71]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Participation Guarantees for Floor Brokers Representing Crossing and Facilitation Orders in Index Options

April 2, 2004.

On October 20, 2003, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Phlx Rule 1064, Crossing, Facilitation and Solicited Orders, with respect to index options. On January 9, 2004, Phlx filed Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended, was published for comment in the **Federal Register** on February 18, 2004.⁴ The Commission received no comments on the proposal.

Phlx Rule 1064 sets forth, among other things, the procedures by which a floor broker holding an option order ("original order") may cross it with another order or orders he or she is holding, or, in the case of a public customer order, with a contra side order

provided by the originating firm from its own proprietary account ("facilitation order"). Under certain conditions, Rule 1064 provides "participation guarantees" in such crossing or facilitation transactions, entitling the floor broker to cross a certain percentage of the original order with the other order or orders ahead of members of the trading crowd.⁵ These participation guarantees currently apply to transactions in equity options only. The Exchange proposes to amend Rule 1064 to provide a participation guarantee for trading in index options, and to set the guaranteed percentage in such options at 20%.⁶

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,⁷ and, in particular, the requirements of section 6(b)(5) of the Act.⁸ The Exchange believes that establishing a participation guarantee of 20% for crossing and facilitation transactions in index options would make the Exchange more competitive by providing an incentive to index options order flow providers to bring order flow to the Exchange. The Commission believes that participation guarantees are reasonable and within the business judgment of the Exchange, as long as they do not restrict competition and do not harm investors.⁹ The Commission has found, with respect to participation guarantees in other contexts, that guarantees of as much as 40% of an order in options trading are not inconsistent with statutory standards of

⁵ The percentage of the order that a floor broker is entitled to cross after all public customer orders have been satisfied is: (1) 20% of the remaining contracts in the order if the order is traded at the best bid or offer given by the crowd in response to the floor broker's initial request for a market; and (2) 40% of the remaining contracts in the order if the order is traded between the best bid or offer given by the crowd in response to the floor broker's initial request for a market. These guarantees apply when the original order is of an eligible size as determined by the Phlx Options Committee on an option-by-option basis, but in no case less than 500 contracts. See Phlx Rule 1064, Commentary .02(ii)-(iii).

⁶ The 20% guarantee would apply whether the order is traded at or between the best bid or offer given by the crowd in response to the floor broker's initial request for a market. All other provisions in Rule 1064 concerning participation guarantees in equity options would apply to index options in the same manner as they apply to equity options. See Notice.

⁷ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(5).

⁹ See, e.g., Securities Exchange Act Release No. 47729 (April 24, 2003), 68 FR 23344 (May 1, 2003).

³⁶ 17 CFR 240.10A-3.

³⁷ See Section 3 of Pub. L. 107-204, 116 Stat. 745 (2002).

³⁸ 17 CFR 240.19b-4(e).

³⁹ *Id.*

⁴⁰ See Securities Exchange Act Release Nos. 46370 (August 16, 2002), 67 FR 54509 (August 22, 2002) (Order granting accelerated approval to SR-CBOE-2002-29); 45082 (November 19, 2001), 66 FR 59282 (November 27, 2001) (Order granting accelerated approval to SR-Phlx-2001-92); and 44621 (July 30, 2001), 66 FR 41064 (August 6, 2001) (Order granting accelerated approval to SR-Amex-2001-29).

⁴¹ 15 U.S.C. 78f(b)(5) and 78s(b).

⁴² 15 U.S.C. 78s(b)(2).

⁴³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Ira Brandriss, Special Counsel, Division of Market Regulation, Commission, dated January 8, 2004.

⁴ See Securities Exchange Act Release No. 49215 (February 9, 2004), 69 FR 7662 ("Notice").

competition and free and open markets.¹⁰

The Commission notes that, pursuant to Phlx Rule 1064, Commentary .02(vi), if a crossing or facilitation trade takes place in a situation in which the specialist is entitled to an Enhanced Specialist Participation (specialist guarantee), the percentage received by the specialist, combined with the percentage crossed by the floor broker, may be no more than 40% of the original order (after public customer orders have been satisfied).

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹¹ that the proposed rule change (File No. SR-Phlx-2003-71) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-8264 Filed 4-12-04; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before June 14, 2004.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Veronica Johnson, Program Analyst, Office of Business Development, Small Business Administration, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Veronica Johnson, Program Analyst, 202-619-0472 or Curtis B. Rich, Management Analyst, 202-205-7030.

SUPPLEMENTARY INFORMATION:

¹⁰ See, e.g., Securities Exchange Act Release Nos. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) at 11398; and 43100 (July 31, 2000), 65 FR 48778 (August 9, 2000) at notes 96-99 and accompanying text.

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

Title: "BusinessLINC Program."
Description of Respondents: Small Business Owners.

Form No: N/A.

Annual Responses: 81.

Annual Burden: 4,200.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Radwan Saade, Economist, Office of Advocacy, Small Business Administration, 409 3rd Street, SW., Suite 7800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Radwan Saade, Economist, 202-205-6878 or Curtis B. Rich, Management Analyst, 202-205-7030.

SUPPLEMENTARY INFORMATION:

Title: "Evaluation of State Efforts to Review and Alleviate State Regulatory Burdens on Small Businesses."

Description of Respondents: The Office of Advocacy is surveying states to gain a better understanding of what states are doing to help small businesses overcome state regulatory burdens.

Form No: 2196.

Annual Responses: 130.

Annual Burden: 120.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 04-8380 Filed 4-12-04; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST-04-17391]

Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork reduction Act of 1995, this notice announces the U.S. Department of Transportation's (DOT) intention to request extension of a previously approved information collection.

DATES: Comments on this notice must be received by June 14, 2004.

ADDRESSES: You may submit comments (identified by DOT DMS Docket Number OST-04-17391) by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- Hand Delivery: 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 on Federal holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided.

Please see the Privacy Act heading under Regulatory Notes.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or 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.

FOR FURTHER INFORMATION CONTACT: Ladd Hakes, Business Policy Division, M-61, Office of the Senior Procurement Executive, Office of the Secretary, (202) 366-4268. Refer to OMB Control Number 2105-0520.

SUPPLEMENTARY INFORMATION:

Title: Uniform Administrative Requirements For Grants and Cooperative Agreements to State and Local Governments.

OMB Control Number: 2105-0520.

Type of Request: Extension without change, of a previously approved collection.

Abstract: The requested extension of the approved control number covers the information and collection requirements imposed by Office of Management and Budget (OMB) Circular A-102, Grants and Cooperative Agreements with State and Local Governments, which the Department of Transportation codified at 49 CFR part 18. The information collected, retained and provided by the State and local government grantees is required to ensure grantee eligibility and their conformance with Federally mandated reporting requirements. OMB