

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47543; File No. SR-Phlx-2003-11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Delivery of Immediate or Cancel Orders Via AUTOM and an Increase in the AUTOM Order Delivery Size for Off-Floor Broker-Dealer Orders

March 20, 2003.

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 March 10, 2003, 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 Phlx. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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

Phlx proposes to amend Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X),⁵ to add a new eligible order

type, Immediate or Cancel ("IOC"), for delivery by both customers and broker-dealers. The Exchange also proposes to amend Exchange Rule 1080(b)(i)(C) to reflect that the Options Committee has determined to increase the eligible AUTOM order delivery size for off-floor broker dealer orders from 200 contracts to 1,000 contracts for all options.⁶

The text of the proposed rule change is set forth below. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

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

Rule 1080. (a) No change.

(b) Eligible Orders

(i) The following types of orders are eligible for entry into AUTOM:

(A) Agency orders up to the maximum number of contracts permitted by the Exchange may be entered. Agency orders up to 1000 contracts, depending on the option, are eligible for AUTOM order delivery, subject to the approval of the Options Committee. The following types of agency orders are eligible for AUTOM; day, GTC, *Immediate or Cancel* ("IOC"), market, limit, stop, stop limit, all or none, or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, market close, market on opening, limit on opening, limit close, and possible duplicate orders.

(B) No change.

(C) Off-floor broker-dealer limit orders, up to the minimum number of contracts permitted by the Exchange, subject to the restrictions on order entry set forth in Commentary .05 of this Rule. Generally, orders up to [200] 1,000 contracts, depending on the option, are eligible for AUTOM order delivery on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee may determine to increase the eligible order delivery size to an amount greater than [200] 1,000 contracts, on an issue-by-issue basis. The following types of broker-dealer limit orders are eligible for AUTOM: day, GTC, *IOC*, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order.

(ii)-(iii) No change.

⁶ The Exchange represents that this proposal will have no impact on AUTO-X. Telephone call among Rick Rudolph, Director and Counsel, CBOE; Terri Evans, Assistant Director, Division of Market Regulation ("Division"), Commission; and Jennifer Lewis, Attorney, Division, Commission, on March 20, 2003.

(c)-(j) No change.

Commentary: No change.

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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 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

1. Purpose

Phlx represents that the purpose of the proposed rule change is to increase the automated handling of options orders, and attract additional order flow, by allowing customers and broker-dealers to deliver Immediate or Cancel ("IOC")⁷ orders via AUTOM, amending the rule to reflect that the Exchange's Options Committee⁸ has determined to increase the eligible AUTOM delivery size of off-floor broker-dealer orders⁹ from 200 contracts to 1,000 contracts for all issues.

IOC Orders. Exchange Rule 1080(b)(i)(A) lists the various types of agency orders¹⁰ that are eligible for

⁷ An "IOC" order means a limit order that is to be executed in whole or in part as soon as such order is received, and the portion not executed, if any, is immediately canceled.

⁸ The Exchange's Options Committee has general supervision of the dealings of members on the equity and index options trading floor, and shall make or recommend such rules as it may deem necessary for the convenient and orderly transaction of business upon the equity and index options trading floor. See Exchange By-Law Article X, Section 10-19.

⁹ In April, 2002, the Commission approved a proposed rule change to allow the delivery of orders for the account(s) of off-floor broker-dealers via AUTOM on a six-month pilot basis (the "pilot"). See Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002) (SR-Phlx-2001-40). The pilot was approved on a permanent basis in October, 2002. See Securities Exchange Act Release No. 46660 (October 15, 2002), 67 FR 64951 (October 22, 2002) (SR-Phlx-2002-50).

¹⁰ The Exchange has defined an agency order as any order entered on behalf of a public customer, and does not include any order entered for the account of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. See, e.g., Exchange Rule 229.02. See also, Securities

Continued

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ 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.

AUTOM, and Exchange Rule 1080(b)(i)(C) currently lists the various types of off-floor broker-dealers that may be delivered via AUTOM. Currently, neither of these rules allows the delivery of IOC orders via AUTOM. The instant proposal would provide that both agency and off-floor broker dealer IOC orders may be delivered via AUTOM.

The Exchange believes that the addition of this new AUTOM eligible order type should enable the Exchange to better compete for customer and broker-dealer order flow by attracting orders which, if not immediately executed, would be cancelled. Investors would have full, immediate information as to the status of such orders, and would be able to respond immediately to reports (either executions or cancellations) stemming from the delivery of such orders. Particularly in times of high market volatility, such information can be critical to customers and broker-dealers who need to make decisions swiftly in response to such reports. The Exchange believes that this new AUTOM eligible order type should facilitate customers and broker-dealers in making such decisions.

The Exchange expects to deploy the systems necessary for the acceptance of IOC orders via AUTOM by April 25, 2003.

Increase in Off-Floor Broker-Dealer Order Delivery Size. As stated above, the Exchange's Options Committee has determined to increase the eligible AUTOM delivery size of off-floor broker-dealer orders from 200 contracts to 1,000 contracts for all issues.¹¹ The proposed rule change would amend Rule 1080(b)(i)(C) to reflect this determination, and would provide that the Options Committee may determine, on an issue-by-issue basis, to increase the eligible order delivery size to an amount greater than 1,000 contracts. The purpose of this provision is to make the Exchange's rules consistent with current practices.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,¹² in general, and section

6(b)(5),¹³ in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest by: (1) Allowing customers and broker-dealers to deliver IOC orders via AUTOM, which should enable the Exchange to better compete for customer and broker-dealer order flow and enable investors to have immediate information as to the status of IOC orders delivered via AUTOM; and (2) making the Exchange's rules regarding the AUTOM order delivery size for off-floor broker-dealer orders consistent with current practices.

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

The Phlx 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 foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6)¹⁵ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The Phlx has requested, so that the Exchange may remain competitive with other exchanges that have similar rules in effect, that the Commission accelerate

the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b-4(f)(6)(iii).¹⁷ The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will permit the Exchange to immediately begin accepting Immediate or Cancel orders from customers and broker-dealers through AUTOM, and, with respect to the increase in the eligible AUTOM order delivery size for off-floor broker-dealer orders, will provide better notice to the public of the Exchange's practices. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁸

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 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-2003-11 and should be submitted by April 16, 2003.

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ 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).

Exchange Act Releases Nos. 46763 (November 1, 2002), 67 FR 68898 (November 13, 2002) (SR-Phlx-2002-04); and 40970 (January 25, 1999), 64 FR 4922 (February 1, 1999) (SR-Phlx-98-44).

¹¹ Currently, Exchange Rule 1080(b)(i)(C) provides that generally, orders up to 200 contracts, depending on the option, are eligible for AUTOM order delivery on an issue-by-issue basis, subject to the approval of the Options Committee, and that the Options Committee may determine to increase the eligible order delivery size to an amount greater than 200 contracts, on an issue-by-issue basis.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ *Id.*

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before April 25, 2003. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: HUBZone Application Data Update.

No: 2227.

Frequency: On Occasion.

Description of Respondents:

HUBZone certified Small Business Concerns.

Responses: 6,000.

Annual Burden: 3,000.

Jacqueline White,

Chief, Administrative Information Branch.

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SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before April 25, 2003. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: Small Business Questionnaire (Use of Telecommunication).

No: N/A.

Frequency: On Occasion.

Description of Respondents: Small Businesses.

Responses: 750.

Annual Burden: 63.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 03-7121 Filed 3-25-03; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to

submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before April 25, 2003. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Jacqueline White, Agency Clearance Officer, (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: PRO-Net.

No: N/A.

Frequency: On Occasion.

Description of Respondents: Small Firms.

Responses: 10,000.

Annual Burden: 2,500.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 03-7122 Filed 3-25-03; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

AGENCY: Small Business Administration.

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 May 27, 2003.

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

¹⁹ 17 CFR 200.30-3(a)(12).