

[Release No. 34-38104; File No. SR-PHLX-96-51]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Extension of the Automated Options Market Pilot Program

December 31, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 6, 1996, 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 and II below, which Items have been prepared by the self-regulatory organization. The Commission is approving this proposal on an accelerated basis.

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

The PHLX proposes to extend the Exchange's Automated Options Market ("AUTOM") system pilot program for a six month period ending June 30, 1997.

The text of the proposal is available at the Office of the Secretary, the PHLX, and at the Commission.

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 self-regulatory organization 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 self-regulatory organization 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

AUTOM, which has operated on a pilot basis since 1988 and was most recently extended through December 31, 1996,¹ is the PHLX's electronic order routing, delivery, execution and

reporting system for equity and index options. AUTOM is an on-line system that allows electronic delivery of options orders from member firms directly to the appropriate specialist on the Exchange's trading floor.

Certain orders are eligible for AUTOM's automatic execution feature, AUTO-X, which was approved as part of the AUTOM pilot program in 1990.² AUTO-X orders are executed automatically at the disseminated quotation price on the Exchange and reported to the Options Price Reporting Authority ("OPRA") as well as the originating firm. Orders that are not eligible for AUTO-X are handled manually by the specialist and, upon execution of the order, are inputted into Exchange systems for reporting to OPRA and the delivering firm.

Originally, the AUTOM pilot program was approved by the Commission for market orders of up to five contracts for 12 PHLX near-month equity options.³ Since that time, AUTOM has been amended and extended several times, generally in one-year increments.⁴

² See Securities Exchange Act Release No. 27599 (January 9, 1990), 55 FR 1751 (January 18, 1990) (order approving File No. SR-PHLX-89-03).

³ See Securities Exchange Act Release No. 25540 (March 31, 1988), 53 FR 11390 (April 6, 1988).

⁴ See 1996 AUTOM Order, *supra* note 1. See also Securities Exchange Act Release Nos. 25540 (March 31, 1988), 53 FR 11390 (April 6, 1988) (order approving AUTOM on a pilot basis); 25868 (June 30, 1988), 53 FR 25563 (order approving File No. SR-PHLX-88-22, extending pilot through December 31, 1988); 26354 (December 13, 1988), 53 FR 51185 (order approving File No. SR-PHLX-88-33, extending pilot program through June 30, 1989); 26522 (February 3, 1989), 54 FR 6465 (order approving File No. SR-PHLX-89-1, extending pilot through December 31, 1989); 27599 (January 9, 1990), 55 FR 1751 (order approving File No. SR-PHLX-89-03, extending pilot through June 30, 1990); 28625 (July 26, 1990), 55 FR 31274 (order approving File No. SR-PHLX-90-16, extending pilot through December 31, 1990); 28978 (March 15, 1991), 56 FR 12050 (order approving File No. SR-PHLX-90-34, extending pilot through December 31, 1991); 29837 (October 18, 1991), 56 FR 36496 (order approving File No. SR-PHLX-90-03, extending pilot through December 31, 1993); 33405 (December 30, 1993), 59 FR 790 (order approving File No. SR-PHLX-93-57, extending pilot through December 31, 1994); 35183 (December 30, 1994), 60 FR 2420 (January 9, 1995) (order approving File No. SR-PHLX-94-41, extending pilot through December 31, 1995); 29662 (September 9, 1991), 56 FR 46816 (order approving File No. SR-PHLX-91-31, permitting AUTO-X orders up to 20 contracts in Duracell options only); 29782 (October 3, 1991), 56 FR 55146 (order approving File No. SR-PHLX-91-33, permitting AUTO-X for all strike prices and expiration months); 32906 (September 15, 1993), 58 FR 15168 (order approving File No. SR-PHLX-92-38, permitting AUTO-X orders up to 25 contracts in all options); and 33405 (December 30, 1994), 60 FR 790 (order approving File No. SR-PHLX-93-57, extending pilot through December 31, 1994); 34920 (October 31, 1994), 59 FR 55510 (November 7, 1994) (File No. SR-PHLX-94-40, codifying use of AUTOM for index options); 35601 (April 13, 1995), 60 FR 19616 (File No. SR-PHLX-95-18, codifying the use of AUTOM for certain order types); 35681

In the most recent extension of the pilot program until December 31, 1996,⁵ the Commission stated that the Exchange's request for permanent approval should be accompanied by a report covering the period between January 1, 1996, and June 30, 1996, describing: (1) the benefits provided by AUTOM; (2) the degree of AUTOM usage, including the number and size of the orders routed through AUTOM and the number and size of the orders executed automatically through the AUTO-X system; (3) the system capacity of AUTOM and AUTO-X; and (4) any problems the Exchange has encountered with the routing and execution features. Generally, the Exchange believes that AUTOM has functioned properly and efficiently since the last extension of the pilot program.

Thus, the PHLX proposes to extend the AUTOM pilot program for a six-month period ending June 30, 1997. The PHLX believes that this should provide time for the Exchange to submit a proposed rule change requesting permanent approval of AUTOM as well as an AUTOM rule to govern the system. During this time, the PHLX can continue to study the effectiveness of AUTOM prior to permanent approval.

According to the PHLX, AUTOM provides option orders with the benefits of electronic delivery and reporting, while AUTO-X provides automatic executions. Accordingly, the Exchange believes that AUTOM increases the speed and efficiency of order delivery, execution and reporting. This, in turn, promotes liquidity as well as fair and orderly markets. For these reasons, the PHLX believes that extending the AUTOM pilot program for six months through June 30, 1997, is consistent with Section 6 of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, and to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with Section 11A(a)(1)(B) of the Act in that AUTOM is intended to improve,

(May 30, 1995), 60 FR 30131 (June 7, 1995) (File No. SR-PHLX-95-29, increasing AUTO-X for USTOP 100 Index ("TPX") options to 50 contracts); 35782 (May 30, 1995), 60 FR 30136 (June 7, 1995) (File No. SR-PHLX-95-30, increasing the maximum AUTOM order size from 100 to 500 contracts); 36429 (October 27, 1995), 60 FR 55874 (November 3, 1995) (File No. SR-PHLX-95-35, allowing broker-dealer TPX option orders to be routed through AUTOM); and 36467 (November 8, 1995), 60 FR 57615 (November 16, 1995) (order approving File No. SR-PHLX-95-33, limiting AUTO-X for National Over-the-Counter Index options to series where the bid is \$10 or less).

⁵ See 1996 AUTOM Order, *supra* note 1.

¹ See Securities Exchange Act Release No. 36582 (December 13, 1995), 60 FR 65364 (December 19, 1995) (order approving File No. SR-PHLX-95-78) ("1996 AUTOM Order").

through the use of new data processing and communications techniques, the efficiency with which transactions in PHLX equity and index options are executed. Further, the Exchange believes that AUTOM fosters competition among options exchanges, which have similar systems in place.

(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. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.

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, and, in particular, the requirements of Sections 6 and 11A.⁶ Specifically, the Commission continues to believe that the development and implementation of the AUTOM system provides for more efficient handling and reporting of orders in PHLX options through the use of new data processing and communications techniques, thereby improving order processing and turnaround time.⁷ The Commission does not object to an extension of the pilot program until June 30, 1997, in response to the PHLX's assertion that continuation of the pilot will provide the Exchange with an opportunity to continue to study its effectiveness prior to permanent approval of the program.⁸

The Commission notes further that the Exchange has represented that from

January 1996 through November 1996, no significant problems have been reported with AUTOM's routing or execution functions, which have functioned properly and efficiently.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register in order to permit the PHLX to continue the AUTOM pilot program on an uninterrupted basis. Specifically, the Commission believes that the PHLX's proposal to extend the AUTOM pilot program does not raise any new issues since it merely extends the pilot program as it is currently operating. Further, the Commission believes that the pilot is beneficial in maintaining the quality and efficiency of the PHLX's market. In addition, the Commission notes that there have been no adverse comments concerning the pilot program since its implementation. Accordingly, the Commission believes that granting accelerated approval of the proposed rule change is appropriate and consistent with Sections 6 and 11A of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days after the date of this publication].

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the

proposed rule change (SR-PHLX-96-51) is approved through June 30, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-38100; File Nos. SR-SCCP-96-10 and SR-Philadep-96-19]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of Proposed Rule Changes Relating to Participants Fund Formulas

December 30, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on November 15, 1996, the Stock Clearing Corporation of Philadelphia ("SCCP") and the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes (File Nos. SR-SCCP-96-10 and SR-Philadep-96-19) as described in Items I and II below, which items have been prepared primarily by SCCP and Philadep. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval on a temporary basis of the proposed rule changes through June 30, 1997.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule changes seek permanent approval of SCCP's and Philadep's participants fund formulas. On February 22, 1996, the Commission granted partial temporary approval to proposed rule changes establishing SCCP's and Philadep's participants fund formulas in connection with the industry conversion to same-day funds settlement ("SDFS").² On August 29, 1996, the Commission extended the

¹⁰ 17 CFR 200.30-3(a)(12) (1995).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release Nos. 36875 (February 22, 1996), 61 FR 7846 [SR-SCCP-95-06] and 36876 (February 22, 1996), 61 FR 7841 [SR-Philadep-95-08] (orders granting partial permanent and partial temporary approval through August 31, 1996, of proposed rule changes).

⁶ 15 U.S.C. § 78f and 78k-1 (1988).

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

⁸ The PHLX will submit a request for permanent approval of the program no later than May 1, 1997. This request will be accompanied by a report covering the period between June 30, 1996, and January 1, 1997, that will include: (1) a description of the benefits provided by AUTOM; (2) the degree of AUTOM usage, including the number and size of the orders routed through AUTOM and the number and size of the orders executed automatically through the AUTO-X system; (3) the system capacity of AUTOM and AUTO-X; and (4) any problems the Exchange has encountered with the routing and execution features.

⁹ 15 U.S.C. § 78s(b)(2) (1982).