

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

The Exchange believes the proposed rule change will impose no inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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, NW., Washington, DC 20549. Copies of the submissions, 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, NW., Washington, DC 20549. 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-97-11 and should be submitted by May 27, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38554; File No. SR-Phlx-97-04]

Self-Regulatory Organizations; Notice of Filing of Amendment Nos. 2 and 3 to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Establishing a 4:02 p.m. Closing Time for Equity and Narrow-Based Index Options Trading, and Modifying the Index Option Exercise Cut-off Time

April 29, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on April 4, 1997, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") Amendment No. 2 to the proposed rule change.³ On April 23, the Exchange filed Amendment No. 3 to the proposed rule change. The proposed rule change, as amended, is described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on Amendment Nos. 2 and 3 from interested persons.

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

In the original rule filing, as amended by Amendment No. 1, the Exchange proposes to amend the rules of the Exchange to close equity options trading at 4:02 p.m. In Amendment No. 2, the Exchange proposes to amend Rule 101 to adopt a 4:02 p.m. trading close for narrow based index options⁴ and amend Rule 1047 to permit two floor officials to approve a trading rotation after the normal close of trading.

In Amendment No. 3, the Exchange proposes to amend Rule 1042A and

Floor Procedure Advice G-1 ("Advice G-1") to change the index option exercise cut-off time from 4:30 p.m. (or 15 minutes after the close of trading if it occurs at a time other than the regular close of trading) to five minutes after the close of trading. Thus, the exercise cut-off time applicable to narrow-based (industry) index options proposed to close at 4:02 p.m. would be 4:07 p.m., and the cut-off time applicable to broad-based (market) index options closing at 4:15 p.m. would be 4:20 p.m. The proposal also deletes the current requirement that member organizations must accept exercise instructions until 4:15 p.m. each business day.

The text of the proposed rule change is available at the Office Of the Secretary, 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, Proposed Rule Change

1. Purpose

Since 1978, equity options have traded ten minutes longer than the primary market. At that time, significant delays in the reporting of stock prices were common; therefore, the additional ten minute period was necessary to receive final stock prices. These delays have now been reduced due to technological advances. Currently, the extra time period for options trading after closing prices are reported in the underlying equities results in equity options and narrow-based index options⁵ trading without the pricing benefit of continuing stock trading. The additional ten minutes also results in repeated automatic executions at outdated options prices. Further, not all market participants are able to respond

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

³ The proposed rule change, including Amendment No. 1, was previously noticed in the **Federal Register**. See 62 FR 5662 (February 6, 1997). Amendment No. 1 is a technical amendment to the rule filing. See letter from Theresa McCloskey, Exchange to Janice Mitnick, Commission, dated January 29, 1997.

⁴ Rule 1042A, 1047A and 1101A(c), and Floor Procedure Advice G-2 will also be amended to conform to a 4:02 p.m. close for the narrow-based index options.

⁵ Like equity options, narrow-based index options are sensitive to changes in the underlying equities prices. Telephone conversation between Edith Hallahan, Exchange and Janice Mitnick, Commission on April 28, 1997. See also Amendment No. 2.

²⁰ 17 CFR 200.30-3(a)(12).

quickly to changes in options prices between 4 and 4:10 p.m. In summary, the Exchange, in balancing the benefits of an extended trading session with the difficulties of trading after the underlying stock has closed, has determined that the benefits do not outweigh the difficulties; therefore, a 4:02 p.m. close for equity and narrow-based index options is appropriate.

The purpose of the rule change is to reduce the amount of time equity and narrow-based index options trade after the close of the primary market for the underlying security. Under the proposal, there will be a two minute time period for equity and narrow-based index options traders and investors to respond to late reports of closing security prices and, where warranted, to bring closing equity and narrow-based index option prices in line with stock prices. The proposed changes establish a 4:02 p.m. close for equity and narrow-based index options, and expressly except broad-based index options. Broad-based index options will continue to trade until 4:15 p.m.

Phlx proposes, pursuant to Amendment No. 2, to permit two floor officials to approve a trading rotation due to unusual market conditions. Currently, Rule 1047, Commentary .03(b) provides that the Options Committee may determine to commence a trading rotation (even resulting in transactions after the normal close of trading) due to unusual market conditions. Where an underlying stock has not stopped printing transaction prices by 4:10 p.m. (or, as proposed, 4:02 p.m.), this would be considered an unusual market condition, and a rotation may be needed in order to establish closing prices.

Notice of such a trading rotation must currently be disseminated to the trading floor by the close of trading (4:10 p.m.). It may be impractical to expect floor officials to be able to approve a final rotation at the close and also have this information disseminated within the same minute. It may become even more impractical with a 4:02 p.m. close. Thus, the Exchange proposes that notice of the rotation need not be required by the close. The rule will still require that notice of the rotation be disseminated and that the rotation not commence until five minutes⁶ after such dissemination. Although the comparable American Stock Exchange, Inc. ("Amex") provision currently requires that notice of a rotation must be

disseminated to the trading floor by 4:10 p.m.,⁷ the Chicago Board Options Exchange, Inc. ("CBOE") and Pacific Stock Exchange ("PCX") merely require that rotations after 3:30 p.m. be announced to the trading floor, and rotations after the normal close of trading not commence until five minutes after notice is disseminated.⁸

Amendment No. 3 proposes to change the index option exercise cut-off time by amending Rule 1042A and Advice G-1. Currently, Rule 1042A requires that a memorandum to exercise any American style index option must be received or prepared by the Phlx member organization no later than 4:30 p.m. (or 15 minutes after the close of trading, if trading is closed at a time other than the regular close of trading).⁹ Further, Rule 1042A(a)(ii) requires the submission of an Exercise Advice Form to the Exchange when exercising American style index option contracts.¹⁰

After proposing the 4:02 p.m. close for narrow-based index options in Amendment No. 2, Phlx re-examined the reference in Rule 1042A that provides a 4:30 p.m. cut-off time for American-style narrow-based index options. The Exchange now proposes an exercise cut-off time of five minutes after the close of trading for all narrow-based index options. The purpose of this proposal is to re-establish a cut-off time similar to that of the other options exchanges.

The Exchange is also proposing to amend Rule 1042A to delete the requirement that member organizations must accept exercise instructions until 4:15 p.m. each business day. Under the proposal, member organizations can establish earlier cut-off times. The purpose of this change is to reflect, similarly to the other options exchanges, that member organizations may determine how to best comply with the Exchange's exercise cut-off time.

2. Statutory Basis

The proposed rule change 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, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged

in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest, consistent with Section 6(b)(5).

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

One written comment was received.¹¹

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

Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the Amendment Nos. 2 and 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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

⁷ See Amex Rule 1, Commentary .02(2).

⁸ See CBOE Rule 6.2, Interpretations and Policies .02; PCX Rule 6.64, Commentary .01.

⁹ Securities Exchange Act Release No. 37077 (April 5, 1996), 61 FR 16156 (April 11, 1996) (SR-Phlx-95-86).

¹⁰ These requirements are currently not in effect on the last business day before expiration, pursuant to Rule 1042A(b). Nor are they applicable to European-style index options, which by definition cannot be exercised prior to expiration.

⁶ Currently, Rule 1047, Commentary .03(b) requires that a trading rotation not commence until 10 minutes after the notice is disseminated. The rule filing proposes to shorten the 10 minutes to 5 minutes.

¹¹ See letter to John F. Wallace, Chairman, Phlx, from Jeffrey S. Yass, Susquehanna Investment Group, dated April 9, 1997.

Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Phlx-97-04, and should be submitted by May 27, 1997.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38552; File No. SR-Phlx-97-17]

Self-Regulatory Organizations: Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend By-Law Article III, Section 3-5(b) Respecting the Eligibility of Persons To Serve on the Nominating Committee

April 28, 1997.

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 April 15, 1997, 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 publishing this notice to solicit comments on the proposed rule changes from interested persons and to grant accelerated approval to the proposed rule change.

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

The PHLX hereby proposes to amend its By-Law Article III, Section 3-5(b) respecting the eligibility of persons to serve on the Nominating Committee. The PHLX has requested approval of the proposed rule change on an accelerated basis.³

The text of the proposed rule change is as follows.
(Brackets represent deletions; italics represent additions)

By-Law Article II, Section 3-5

(a) No change
(b) The Nominating Committee shall consist of not less than [nine] *seven* persons, each of whom shall be, [either] a member of the Corporation or a general partner or officer of a member organization *or such other person who is considered to be qualified*. At least one member appointed to the Nominating Committee shall, at the time of his appointment, not be a member of the Board of Governors. In appointment of the Committee members, the Chairman of the Board shall have due regard for representation on the Committee of the various functions and activities of the Corporation and its members. The Chairman of the Board shall also designate the Chairman of the Committee.

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. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspect of such statements.

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

1. Purpose

PHLX By-Law Article III, Section 3-5(b) sets forth the eligibility requirements for service on the Nominating Committee. The By-Law presently requires that the Committee consist of a minimum of nine persons who shall be either PHLX members or general partners or officers of members organizations. The proposed By-Law amendment reduces the minimum number of Committee members to seven and allows consideration of non-members who are qualified persons to be eligible for Board appointment to the Committee.

PHLX is currently in the process of a major review of corporate governance initiatives. In conjunction with these initiatives, PHLX proposes to change the eligibility requirements to serve on its Nominating Committee. Reducing the minimum number of members on the Committee will promote a more cohesive and collaborative Committee, thereby facilitating the deliberative

process. Additionally, the amendments will be conducive to achieving greater diversity on the Committee, which may constructively influence the process in selecting nominations to the Board of Governors.

By adding the provision that "any other person who is considered qualified may be appointed to the Committee," the Chairman may now recommend appointment of public governors and other non-member affiliated representatives to the Committee. Inclusion of individuals other than only PHLX members should provide greater diversity to the Nominating Committee with concomitant benefits to the Committee's deliberative process. Thus, By-Law amendment will promote the governance initiatives of the PHLX, which include the transition to a Board reflecting 50% public governor representation.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) ⁴ of the Act in general, and in particular, with Section 6(b)(3),⁵ in that it is designed to promote the opportunity to assure a fair representation of PHLX members in the selection of directors and the administration of affairs, and with Section 6(b)(5) ⁶ in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system, as well as to protect investors and the public interest.

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

In accordance with PHLX By-Law Article XXII, Section 22-2, the proposed amendment was noticed to the membership by Circular 97-69 on March 27, 1997. No written requests or

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

³ Letter from Murray Ross, Vice President and Secretary, PHLX, to Ivette Lopez, Esq., Assistant Director, Office of Market Supervision, Division of Market Regulation, SEC, dated April 23, 1997.

⁴ 15 U.S.C. § 78f.

⁵ 15 U.S.C. § 78f(b)(3).

⁶ 15 U.S.C. § 78f(b)(5).