

burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

NASD Regulation has neither solicited nor received written comments.

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 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 Room, 450 Fifth Street NW., Washington, DC 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-97-48 and should be submitted by August 28, 1997.

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

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. In particular, the proposed rule change satisfies the requirements of Section 15A of the Act.³

Recently, there has been a movement within the securities industry to reduce the minimum trading and quotation increments imposed by the various self-regulatory organizations. As noted previously, the Amex, Nasdaq, and the NYSE have recently reduced their minimum increments.⁴ The proposed

rule change modifies the NASD's rule regarding the adjustment of open orders so that it can accommodate this transition to finer increments. This should promote greater consistency between the prices at which securities may be quoted and the price adjustments made to open orders in securities quoted "ex-."

The Commission notes, however, that the NASD's proposed use of the greatest minimum variation for adjusting open orders, rather than the minimum variation applicable to the particular security, is inconsistent with the practices employed by other markets.⁵ This disparity could result in orders for the same security at the same price in different markets being rounded differently and, thus, could shift the priority among orders that were formerly on parity.⁶

Nevertheless, the method chosen by NASD Regulation comports with the Act. By permitting NASD members to apply the same increment to all open orders for securities quoted "ex-," the proposal should facilitate the ability of NASD members to quickly adjust such orders.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. NASD members have already begun quoting stocks in increments finer than an eighth. The proposed rule change facilitates the NASD's transition to finer increments. Requiring NASD members to utilize

(approving an Amex proposal to reduce the minimum trading increment from $\frac{1}{8}$ to $\frac{1}{16}$); 38678 (May 27, 1997), 62 FR 30363 (June 6, 1997) (approving a proposed rule change by the NASD to reduce the minimum quotation increment from $\frac{1}{8}$ to $\frac{1}{16}$); 38744 (June 18, 1997), 62 FR 34334 (June 25, 1997) (approving an NYSE proposal to reduce the minimum trading increment from $\frac{1}{8}$ to $\frac{1}{16}$).

⁵ For example, both the NYSE and the Chicago Stock Exchange ("CHX") require their specialists to utilize the increment in which bids (offers) are made when adjusting open orders for securities quoted "ex-." See CHX Article XX, Rule 35 and NYSE Rule 118.21.

⁶ For example, two parties may enter orders to buy the same security for \$9, but one order is placed with a CHX specialist and the other is placed with a Nasdaq market maker. Assume further that the issuer declares a \$0.15 dividend. The CHX order would be rounded down by $\frac{3}{32}$ to \$8 $\frac{27}{32}$ (\$8.84375, the closest applicable minimum trading variation) whereas the Nasdaq market maker would round its \$9 order down by $\frac{3}{16}$ to 8 $\frac{13}{16}$ (\$8.8125, the closest applicable variation based on Nasdaq's largest variation, notwithstanding that Nasdaq allows securities under \$10 to be quoted in $\frac{1}{32}$ s). The end result is that the CHX order will obtain price priority over an order that it was on parity with before the security was quoted "ex-." Moreover, this shift in priority is not the result of a conscience decision by a customer to relinquish priority but rather is attributable to the fact that the adjustment technique utilized by Nasdaq is inconsistent with other markets.

eighths when adjusting open orders for securities quoted "ex-" until the full statutory review period has elapsed would unnecessarily inhibit the NASD's transition to finer increments. Therefore, the Commission believes it is consistent with Section 19(b)(2) of the Act to grant accelerated approval to the proposed rule change.⁷

V. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NASD-97-48) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38890] ; File No. SR-Philadep-97-03]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change to Appoint the Canadian Depository for Securities Limited as a Correspondent Depository

July 30, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on April 18, 1997, the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") and on April 24, 1997, filed an amendment to the proposed rule change as described in Items I and II below, which Items have been prepared primarily by Philadep. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change through October 31, 1997.

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

The purpose of the proposed rule change is to extend temporary approval of the appointment of The Canadian

⁷ 15 U.S.C. § 78s(b)(2).

⁸ *Id*

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s (b)(1).

³ 15 U.S.C. § 78o-3. In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. *Id.* § 78c(f).

⁴ Securities Exchange Act Release Nos. 38571 (May 5, 1997), 62 FR 25682 (May 9, 1997)

Depository for Securities Limited ("CDS") as Philadep's nonexclusive agent and custodian in receiving securities deposited by CDS-sponsored participants for delivery to Philadep and to eliminate the family of accounts subaccounting designed for and pertaining to the individual participants of CDS.²

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

In its filing with the Commission, Philadep 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. Philadep has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.³

Effective November 1, 1996, CDS became a Philadep participant and has served as a non-exclusive agent and custodian for Philadep in receiving securities deposited by certain CDS-sponsored participants for credit to their respective subaccounts in CDS's account at Philadep. Pursuant to Philadep's proposed rule change, the operational arrangements will remain intact as represented in previous filings submitted to the Commission;⁴ however, Philadep will no longer use its subaccount feature for the CDS account. Philadep will now administer CDS like other Philadep participants.⁵

Philadep believes the proposed rule change is consistent with the requirements of Section 17A of Act and the rules and regulations thereunder because the rule proposal fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transaction and further assures the safeguarding of

securities and funds which are in the custody or control of Philadep or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Philadep does not believe that the proposed rule change will impact or impose a burden on competition.

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

Written comments were neither solicited nor received with respect to the proposed rule change. Philadep will notify the Commission of any written comments received by Philadep.

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

Section 17A(b)(3)(F)⁶ of the Act requires that the rules of a clearing agency by designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes that Philadep's designation of CDS as Philadep's non-exclusive agent and custodian in receiving securities deposited by CDS-sponsored participants for delivery to Philadep is consistent with Philadep's obligations under Section 17A(b)(3)(F) because the proposed rule change should help foster cooperation and coordination between the U.S. and Canada clearance and settlement systems.

On January 26, 1996, the Commission granted approval to Philadep's proposal that it be allowed to appoint WCDTC as its nonexclusive agent and custodian in receiving certain securities deposits.⁷ On November 1, 1996, the Commission granted temporary approval to Philadep's proposed rule change to allow Philadep to appoint CDS as its nonexclusive agent and custodian because CDS had purchased WCDTC and would continue the correspondent depository activities of WCDTC.⁸ In connection with this proposed rule change, Philadep has requested that the Commission grant Philadep the latitude to modify the extra financial protections that are currently being applied to the CDS account (*i.e.*, \$1 million participants fund deposit and \$5 million (Canadian) letter of credit). Philadep

contends that a decrease in the financial protections Philadep receives from CDS is justified given (1) Philadep's belief that the short selling activity in the CDS account may decrease; (2) that SCCP has filed a proposed rule change with the Commission to modify the participant's fund formula to account for short selling activity; (3) Philadep's belief that CDS has comprehensive and formalized risk management controls. However, Philadep has not provided the Commission with any supporting documentation regarding these assertions regarding CDS. Therefore, it is the Commission's position that the extra financial protections that are currently being applied to the CDS account (*i.e.*, \$1 million participants fund deposit and \$5 million (Canadian) letter of credit) should remain in place at the same levels.

On November 1, 1996, the Commission extended the temporary approval of Philadep's custodial arrangement with CDS so that Philadep and the Commission could further monitor, review, and analyze this custodial arrangement. The Commission is again granting temporary approval of the proposed rule change through October 31, 1997, so that CDS can continue to act as Philadep's non-exclusive agent and custodian and can continue its correspondence depository activities until similar arrangements can be implemented between CDS and The Depository Trust Company in connection with Philadep's ceasing to provide depository services. During this temporary approval period, Philadep should continue to monitor the nonexclusive agent and custodian arrangement between Philadep and CDS to ensure that proper risk management procedures are in place. In this regard, the Commission requests that Philadep continue to file monthly reports analyzing activity in CDS's omnibus account and subaccounts.

Philadep has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. 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 because accelerated approval will allow Philadep to extend CDS's appointment as its non-exclusive agent and custodian thus allowing CDS to continue its correspondent depository activities. The staff of the Board of Governors of the Federal Reserve System concurred with

² Letter from J. Keith Kessel, Compliance Officer, Philadep (April 24, 1997).

³ The Commission has modified the text of the summaries prepared by Philadep.

⁴ Securities Exchange Act Release No. 36782 (January 26, 1996), 61 FR 3956 (File No. SR-Philadep-96-01) (order granting accelerated approval on a temporary basis of a proposed rule change to appoint the WCDTC as a correspondent depository); Securities Exchange Act Release No. 37383, (June 28, 1996), 61 FR 35292 (File No. SR-Philadep-96-09) (order granting accelerated approval on a temporary basis through December 31, 1996 of a proposed rule change seeking permanent approval of the designation of the WCDTC as a correspondent depository).

⁵ Philadep will eliminate the family of accounts subaccounting function for the CDS account, and CDS activity will be processed in an omnibus account.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ *Supra* note 4.

⁸ Securities Exchange Act Release No. 37918 (November 1, 1996), 61 FR 57938 (File No. SR-Philadep-96-17) (order granting accelerated approval on a temporary basis of a proposed rule change to appoint The Canadian Depository for Securities Limited as a correspondent depository).

the Commission's granting of accelerated approval.⁹

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 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 in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of Philadep. All submissions should refer to file number SR-Philadep-96-17 and should be submitted by August 28, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-Philadep-97-03) be, and hereby is, approved through October 31, 1997.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38891; File No. SR-Phlx-97-34]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Amending the FCO Selective Quoting Facility

July 31, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on

⁹ Telephone conversation with John Rudolph, Supervisory Trust Analyst, Board of Governors of the Federal Reserve Board.

¹⁰ 17 CFR 200.30-3(a)(12).

¹¹ 15 U.S.C. § 78s(b)(1).

July 25, 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, II, and III below, which Items have been prepared by the self-regulatory organization.² 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 pursuant to Rule 19b-4 of the Act,³ proposes to amend the foreign currency option ("FCO") Selective Quoting Facility ("SQF"), embodied in Rule 1012, Commentary .04 and Floor Procedure Advice ("Advice") F-18, FCO Expiration Months and Strike Prices—Selective Quoting Facility, to re-designate some series that maintain open interest, but have not traded within the previous five trade days, as update strikes in certain situations. Currently, these strikes are considered non-update strikes under the provisions of Advice F-18 and Rule 1012.04. The proposal would permit the Foreign Currency Options Committee to designate these non-update strikes as update strikes, after notification to the trading community and with a quarterly review by the Committee. The SQF is a feature of the Exchange's Auto-Quote System. The complete text of the proposed rule change is available at the places specified in Item IV below.

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

² The proposal was filed originally by the Phlx on July 25, 1997, and clarified on July 29, 1997. The Phlx clarified the text of the rule and the advice to state that the purpose of quarterly review by the foreign Currency Options Committee is to determine if series receiving designation as update strikes should continue to receive such designation. See Letter from Philip H. Becker, Senior Vice President and Chief Regulatory Officer, Phlx, to Michael Walinskas, Senior Special Counsel, Office of Market Supervision, Division of Market Regulation, SEC (July 28, 1997). See also Securities Exchange Act Release No. 35123 (Dec. 20, 1994), 59 FR 66692, at 12 (permitting the staff discretion to accept editorial changes to a proposed rule filing without triggering a new 30 day comment period).

³ 17 CFR 240.19b-4.

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

Implemented in 1994,⁴ the SQF was intended to reduce the number of strike prices being continuously updated and disseminated, thus resulting in more timely and accurate FCO quote displays. The SQF establishes criteria to determine whether the bid/ask quotation for each FCO series is eligible for transmission to the Options Price Reporting Authority ("OPRA") for off-floor dissemination to securities data vendors. Currently, the SQF, a feature of the Exchange's Auto-Quote system, categories certain FCO strikes as "non update" or "inactive" strikes, which are disseminated with the OPRA indicator "I" and zeroes (e.g., 000-000), in lieu of market. When a series is inactive, those bids and offers are no longer updated in the Exchange's Auto-Quote system for dissemination. However, if interest is then voiced in any such series, it can be activated immediately upon establishment of a quote in that series. Inactive strikes with open interest (that have not traded in the previous five days) are quoted once at the close of trading in the previous five days) are quoted once at the close of trading each day for purposes of mark-to-market valuation.

In contrast, "update" or "active" strikes include, at minimum: (1) Two in-the-money and six out-of-the-money, and (2) strikes with open interest that have traded within the previous five days. Because Rule 1012.04 establishes the *minimum* strikes to be activated, active strikes may also be added at the initiative of the Exchange or in response to a request by the Specialist or an FCO Floor Official.

Designating as inactive those series that are away-from-the money or not recently traded (meaning have the least investor interest) eliminates quote changes in those series, thus reducing the dissemination delays caused by thousands of quote changes in volatile trading periods. Because inactive series are not continuously updated and disseminated, quotation processing times are reduced such that quotes respecting active strikes are updated and disseminated to customers much more quickly.

At this time, the Exchange proposes that the SQF feature of Auto-Quote

⁴ Securities Exchange Act Release No. 33067 (October 19, 1993), 58 FR 57658.