

In the past, the Commission approved the basic ILX package fee and optional ILX news and information service fees for member firms accessing the services from terminals located in trading floor booths.³ Members can now more readily access optional ILX services from numerous CBOE-owned kiosk terminals located throughout the trading floor, as well as from firm booth terminals.

The revised ILX fees will be outlined in detail in a Regulatory Circular which will be issued to the Exchange's membership.⁴ An individual member can request optional ILX features to be displayed on a CBOE-owned kiosk terminal by submitting to the Exchange an Entitlement Request form, and entering an ILX user identification number of the kiosk terminal. ILX will then switch on the chose feature(s) or "entitlement(s)" from a remote location to enable that terminal to receive the data.

The revised ILX optional fees will be effective retroactive to May 1, 1998.⁵

2. Statutory Basis

The CBOE believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁶ in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members, issuers, and other persons using CBOE facilities.

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

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

³ In 1994, the CBOE established a monthly \$350 fee for the basic ILX news package to members with ILX/WDN PC terminals at their floor booth locations. See Securities Exchange Act Release No. 33983 (April 29, 1994), 59 FR 23756 (May 6, 1994). In 1995, the CBOE established monthly fees for optional ILX news, market data and informational features available on terminals at member firm booth locations. See Securities Exchange Act Release No. 36349 (October 6, 1995), 60 FR 53651 (October 16, 1995).

⁴ The Regulatory Circular will list all currently available ILX optional features and current fees, although some fees have not changed since the 1995 filing referenced in note 3 above.

⁵ In April 1998, the CBOE filed with the Commission a proposed rule change to revise the same ILX fees. See SR-CBOE-98-18. In May 1998, the CBOE withdrew that filing and replaced it with this filing, SR-CBOE-98-24, to make technical corrections to the fees. Based on SR-CBOE-98-18 becoming effective on filing, the CBOE began charging the revised ILX fees (as those fees were stated in SR-CBOE-98-24) to members as of May 1, 1998.

⁶ 15 U.S.C. 78f(b)(4).

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and subparagraph (e)(2) of Rule 19b-4 thereunder.⁸ At any time within 60 days of the filing of the 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, N.W., 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 in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR-CBOE-98-24 and should be submitted by July 9, 1998.

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

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 204.19b-4(e)(2).

⁹ 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40083; File No. SR-OCC-98-03]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Stock Loan/Hedge Program

June 11, 1998.

On April 13, 1998, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-OCC-98-03) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on June 4, 1998.² No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Description

OCC's stock loan/hedge program ("hedge program") is a clearing system for stock loans between OCC clearing members.³ The rule change amends OCC's By-Laws and Rules governing the hedge program.⁴

A. Stock Loan Initiation and Mark-to-Market Payments

Currently under the hedge program, a stock loan is initiated when two hedge clearing members agree on the terms of the loan.⁵ Next, the lending clearing member transfers the stock to OCC's account at a "correspondent depository"

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 40042 (May 28, 1998), 63 FR 30544 (June 4, 1998).

³ For a complete description of the hedge program, refer to Securities Exchange Act Release No. 32638 (July 15, 1993), 58 FR 39264 (July 22, 1993) [File No. SR-OCC-92-34] (order approving proposed rule change).

⁴ For a detailed section-by-section discussion of the specific changes to OCC's By-Laws and Rules refer to Securities Exchange Act Release No. 40042, *supra* note 2. The rule change adds a new Rule 2201 to OCC's rules. As a result, Rules 2201-2210 have been renumbered 2202-2211 and they are referred to in this order by their revised numbers.

⁵ Clearing members that are approved to participate in the hedge program are referred to as "hedge clearing members." A clearing member that lends stock through the hedge program is referred to as a "lending clearing member," and a clearing member that borrows stock through the hedge program is referred to as a "borrowing clearing member."

(i.e., a clearing agency which is registered with the Commission, which acts as a securities depository and at which OCC has an account). OCC then directs the correspondent depository to redeliver the stock to the borrowing clearing member against payment of the required collateral amount. OCC then pays the required collateral amount to the lending clearing members.

Under the rule change, OCC will not participate in a stock loan transaction until after the hedge clearing members that are parties to the stock loan have transferred the securities and required collateral between themselves through the facilities of The Depository Trust Company ("DTC"). Upon receiving notice of the stock loan from DTC, OCC will verify the accuracy of the clearing members' account numbers and the information supplied to OCC with respect to the transaction. If this information is verified, OCC will accept the loan into the hedge program. Upon OCC's acceptance of the loan, the stock loan contract will be replaced by two parallel contracts with congruent terms: one between the lending clearing member and OCC as stock borrower and one between the borrowing clearing member and OCC as stock lender. If OCC rejects a stock loan transaction, the transaction will remain in effect between the lending clearing member and the borrowing clearing member but will be outside the hedge program.

B. Eligible Stock

Currently, the only stocks that are eligible for the hedge program are stocks that are the underlying stocks for stock option contracts. Under the rule change, all equity securities that are eligible for deposit at DTC will be eligible for the hedge program (other than any stock as to which OCC has made a determination pursuant to Article XXI, Section 2(c) of its By-Laws to terminate all outstanding stock loans relating to that stock).

C. Collection of Margin on Stock Loan and Borrow Positions

Currently a hedge clearing member is required to deposit margin with OCC to cover OCC's risk that the market will move against the member's stock loan and borrow positions during a day and that the member will fail before making the required mark-to-market payment on the next business day. All stock loan and stock borrow positions are taken into account in calculating each clearing member's obligation to deposit "additional margin" with OCC and may generate either an increased additional margin requirement (if the stock loan or borrow positions do not hedge other positions of the clearing member) or a

reduced additional margin requirement (if the stock loan or borrow positions do hedge other positions of the clearing member).

Under the rule change, a clearing member will be able to designate one or more of its accounts with OCC as "margin-ineligible." If an account is designated as margin-ineligible, OCC will not include any stock loan and stock borrow positions carried in that account in the calculation of the clearing member's additional margin obligations. However, margin-ineligible accounts will be subject of the other elements of OCC's protection and back-up systems (such as OCC's clearing fund and its concentration monitoring surveillance system) to mitigate OCC's risk with respect to the positions carried in those accounts.

Rule 601 currently provides that additional margin calculations are based in part on the "gross" stock loan and borrow positions of a hedge clearing member (i.e., without regard to whether a position on the other side of the market is carried in the account). The rule change amends Rule 601(c) to state that additional margin on margin-eligible stock loan and borrow positions will be based only on the "net" stock loan or borrow position in an account in a manner analogous to the method that OCC uses for options.

D. Stock Loan and Borrow Baskets

Under the rule change, a clearing member will be able to instruct OCC to treat specified stock loan positions in an account as constituting a "stock loan basket" and may instruct OCC to treat specified stock borrow positions in an account as constituting a "stock borrow basket." All stock loan baskets and all stock borrow baskets will be subject to margin under OCC's Rule 602.⁶ Currently, the hedge program has no provisions for stock loan and borrow baskets.

The rule change amends the definition of "class group" in Rule 602(b)(2) to state that OCC will treat any stock loan basket or stock borrow basket defined by a clearing member as within the class group identified by the clearing member even if the stock loan or borrow positions the basket do not replicate the composition or weighting of the index group for the class group and even if the stocks underlying the identified stock loan or borrow positions are not even included in the

index group. However, a stock loan or borrow basket that does not meaningfully replicate the composition and weighting of the index group for a class group will be subject to a large haircut when OCC takes the basket into account in determining the additional margin requirement for the class group.⁷ In addition, the rule change amends Rule 602(c)(1)(ii)(A) to state that if a clearing member defines two or more stock loan baskets or two or more stock borrow baskets in an account as within the same class group, OCC will take each basket into account separately and calculate a "haircut" for each separately in determining additional margin for the class group.

The rule change also adds Rule 602(f)(8) which sets forth OCC's procedures if a hedge clearing member modifies a stock loan or borrow position that is completely or partly included in a stock loan basket or stock borrow basket. Rule 602(f)(8) states that if a hedge clearing member reduces or terminates one or more of the stock loan or borrow positions that are included in a stock loan or borrow basket OCC will regard any stock loan or borrow positions remaining in the basket as a new basket in the same class group as the previous basket unless the hedge clearing member instructs OCC otherwise. In addition, Rule 602(f)(8) states that if a hedge clearing member reduces a stock loan or borrow position that is partially included in a stock loan or borrow basket OCC will regard the entire remaining stock loan or borrow position as having been withdrawn from the basket unless the hedge clearing member instructs OCC otherwise through standing instructions or timely instructions after the reduction of the position.

E. Stock Loan Termination and Hedge Member Suspension

Under the current hedge program, the termination of a stock loan begins when the borrowing clearing member transfers the stock to OCC's account at the corresponding depository. Next, OCC directs the correspondent depository to redeliver the stock to the lending clearing member against payment of the collateral amount to OCC. OCC then pays the collateral amount to the borrowing clearing member. Under the rule change, a stock loan will be terminated when the borrowing clearing member transfers the stock to the lending clearing member's account at DTC against payment by the lending

⁶ OCC rule 602 describes the calculation of margin requirements for securities which are neither equity securities nor based on equity securities. This margin system is sometimes referred to as OCC's "NEO" or "non-equity option" margin system.

⁷ OCC's authority to determine haircuts is set forth in OCC Rule 602(c)(1)(ii)(C)(1).

clearing member of the collateral amount.

The rule change adds an interpretation to section 2 of Article XXI of the By-Laws to address situations in which the termination of a stock loan is reported to OCC at a settlement price (i.e., the amount of collateral that the lending clearing member must return to the borrowing clearing member) that is not consistent with OCC's records. A similar interpretation is added to Rule 2209 to address situations in which OCC receives a report of the termination either of a purported stock loan that does not exist on OCC's records or of a stock loan on OCC's records in a quantity that does not match the quantity in the termination report. In each case, the interpretation states that OCC's records will be dispositive in both of these situations and that OCC will not accept any responsibility for reconciling the discrepancy between its record and those of the affected clearing members.

The rule change also provides for an alternative termination process if OCC has suspended a hedge clearing member. Under the rule change, Rules 2202(c) and 2208(c) are amended to give OCC the express authority to instruct each hedge clearing member on the other side of a suspended clearing member's stock loans to terminate the stock loan in a manner other than the standard terminated described above. The rule change amends Rules 2210(b) and 2211 to allow OCC to direct the hedge clearing member that has not been suspended to use the collateral to buy in the loaned stock (if the suspended clearing member is the borrowing clearing member) or to sell out the loaned stock and apply the proceeds to the repayment of the collateral (if the suspended clearing member is the lending clearing member).

The rule changes amends Rule 2210(a) to state that if DTC suspends one of the parties to a stock loan prior to the time at which OCC would have otherwise accepted the stock loan into the hedge program, OCC will not accept the stock loan. Rule 2210(a) is also amended to state that OCC will accept any stock loan that complies with the completeness and accuracy requirements of Rule 2202(b) even if OCC suspends one of the hedge clearing members which is a party to the stock loan prior to the time at which OCC accepts the stock loan.⁸

⁸In such cases, OCC will instruct the hedge clearing member that has not been suspended to terminate the stock loan contract through the process set forth in revised Rules 2210(b) and 2211, as described above.

II. Discussion

Section 17A(b)(3)(F) of the Act⁹ requires that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of the national system for the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the rule change is consistent with OCC's obligation under Section 17A(b)(3)(F) because it should increase the use of OCC's hedge program which should in turn help to improve the efficiency and safety of stock lending transactions. Specifically, the Commission believes that increased use of the hedge program should reduce exposure to counterparty default, increase payment netting, reduce collateral requirements, and apply advanced clearing and risk management practices to the stock loan market. Accordingly, the Commission believes that the rule change should enable OCC to remove impediments to and help perfect the mechanism of the national system for the prompt and accurate clearance and settlement of securities transactions.

OCC requested that the Commission approve the proposed rule change prior to the thirtieth day after the publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because such approval should allow OCC to provide needed assurances to clearing members that the hedge program will be implemented, should OCC to institute changes to the hedge program to make it more attractive to clearing members and should allow OCC to train hedge clearing members on the new system interfaces. These changes should result in increased efficiency in the clearance and settlement process for OCC's clearing members that use the hedge program. The Commission also notes that the use of the hedge program is not mandated by OCC.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with Section 17A of the Act¹⁰ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-98-03) be and hereby is approved.

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 15 U.S.C. 78q-1.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹¹

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40088; File No. SR-Phlx-98-25]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Regarding the Temporary Relocation of Phlx Dell Options to the American Stock Exchange, Inc. Trading Floor

June 12, 1998.

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 June 12, 1998,³ 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 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 change from interested persons.

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

Phlx is proposing to rent facilities from the American Stock Exchange Inc. ("Amex") for the trading of options on Dell Computer Inc. ("Dell") on the Amex for up to six months to address the exigency of extraordinary contract and trade volume, unique to Phlx-traded Dell options ("Phlx Dell options"). Specifically, Phlx proposes to utilize the options floor trading space and facilities, including the quotation, order entry, processing, execution, trade reporting and comparison functions, of Amex for Phlx member trades in Phlx Dell options. Thus, Amex would rent to Phlx a facility on Amex's New York

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On June 12, 1998, the Exchange filed Amendment No. 1 to the proposed rule filing, the substance of which is incorporated into the notice. See letter from Edith Hallahan, Associate General Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, Market Regulation, Commission, dated June 11, 1998.