

December 22, 1997, the National Securities Clearing Corporation ("NSCC") 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 primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested persons on the proposed rule change and to grant accelerated approval of the proposed rule change.

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

The proposed rule change will amend NSCC's procedures to eliminate the distribution of odd-lot activity reports.

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

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

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

NSCC currently produces odd-lot activity reports for distribution by the New York Stock Exchange ("NYSE"). The reports identify odd-lot trades executed on the NYSE each trading day and are provided to joint members of NSCC and NYSE in both print and machine readable output formats on the night of trade date.

The purpose of the proposed rule change is to amend NSCC's rules to eliminate the distribution of the reports. NYSE requested the elimination because the odd-lot activity information is available in other reports currently distributed to members. NSCC will coordinate with the NYSE the process of discontinuing distribution.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act³ and the rules and regulations thereunder because it fosters cooperation and coordination with other

entities engaged in the clearance and settlement of securities transactions.

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

NSCC does not believe that the proposed rule change will impose any 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

No comments on the proposed rule change were solicited or received.

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

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.⁴ The Commission believes that the proposal is consistent with NSCC's obligations because it coordinates the dissemination of information by NSCC and NYSE.

NSCC 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 in the **Federal Register** in order to allow NSCC to eliminate production of reports on the same day that the NYSE is scheduled to cease distribution of reports. Because accelerated approval will allow NSCC and NYSE to implement administrative efficiencies in an expedient and coordinated fashion, the Commission finds good cause for granting accelerated approval.

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, 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 in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-97-15 and should be submitted by March 2, 1998.

Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NSCC-97-15) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-3118 Filed 2-6-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39606; File No. SR-PHLX-97-42]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to a Floor Broker's Responsibility to be Loud and Audible and Positioned to be Heard by a Majority of the Trading Crowd

February 2, 1998.

I. Introduction

On August 27, 1997, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,¹ a proposed rule change to amend Floor Procedure Advice C-7 to specify a Floor Broker's responsibility to be loud and audible and positioned to be heard by a majority of the trading crowd.

The proposed rule change was published for comment in Securities Exchange Act Release No. 39404 (December 4, 1997), 62 FR 65467 (December 12, 1997). No comments were received on the proposal.

II. Description of the Proposal

The Exchange, pursuant to Rule 19b-4 of the Act,¹ proposes to amend Floor

² The Commission has modified the text of the summaries prepared by NSCC.

³ 15 U.S.C. 78q-1.

⁴ 15 U.S.C. 78q-(b)(3)(F).

⁵ 17 CFR 200.30-3(a)(12).

¹ 17 CFR 240.19b-4.

Procedure Advice ("Advice") C-7, Responsibility to Represent Orders to the Trading Crowd, to adopt a new paragraph (b) in order to specify a Floor Broker's responsibility to be loud and audible and positioned to be heard by a majority of the trading crowd.

Currently, Advice C-7 states that once an option order has been received on the floor, it must be represented to the trading crowd before it may be represented away from the crowd. This paragraph would be designated as paragraph (a). Proposed paragraph (b) would state that a Floor Broker must be loud and audible when requesting a market and/or representing an order in the trading crowd. Further, a Floor Broker must make reasonable efforts to position himself in the trading crowd to be heard by the majority of the trading crowd.

A fine schedule, pursuant to the Exchange's minor rule violation enforcement and reporting plan ("minor rule plan"),² is proposed to be levied for minor violations of proposed paragraph (b). Specifically, violations will be subject to the following fine schedule, which will be implemented on a one year running calendar basis: 1st Occurrence—\$100; 2nd Occurrence—\$250; 3rd Occurrence and Thereafter—Sanction is discretionary with Business Conduct Committee ("BCC"). This fine schedule is proposed to be adopted into, and thus amend, the Exchange's minor rule plan. Instances not deemed minor, as with all floor procedure advices subject to the minor rule plan, would be forwarded to the BCC. Violations of paragraph (a) would continue to be referred to the BCC, as no fine schedule applies. However, language indicating that such matters are subject to review by the BCC is proposed to be added. The proposal will take effect upon notice to the membership.

First adopted in 1987,³ Advice C-7 was designed to ensure that brokered orders receive the maximum interaction with orders competing for the other side of the trade, before they may be represented away from the crowd. The Exchange stated in its filing that this requirement improves the functioning of

the auction market and the quality of customer executions. Similarly, the Exchange said it believed that the proposed loud and audible and crowd positioning requirements are intended to promote maximum interaction with other interest in the crowd, by improving the likelihood that Floor Brokers are heard and facilitating price discovery.

The Exchange stated in its filing that the proposal is appropriately codified into Advice C-7, which deals with Floor Broker responsibilities, and, more specifically, with representing orders in the trading crowd. Furthermore, the Exchange said the new requirement is appropriate for the minor rule plan, because it involves actions that are objective and easily verifiable. The reference in the fine schedule to infractions of paragraph (a) being referred to the BCC is intended to bolster the distinction between provisions subject to fines and those referred directly to BCC; it does not imply that violations of paragraph (a) cannot result in fines or disciplinary action.

The Exchange further stated that the loud and audible requirement is rooted in Phlx Rule 110, which requires bids and offers to be made in an audible tone of voice, as well as Rule 707, which prohibits members and member organizations from engaging in conduct inconsistent with just and equitable principles of trade. Floor Brokers are also required to utilize due diligence in representing orders, pursuant to Phlx Rules 155 and 1063. Specifically, Floor Brokers are responsible for using due diligence to execute an order at the best price available, which implies complete crowd interaction. Proposed paragraph (a) would apply to Floor Brokers requesting a market (quoting) as well as representing a market, including bidding, offering, canceling, executing and inquiring as to the status of orders or bids/offers.

Similarly, the Exchange stated that the requirement that Floor Brokers position themselves so as to be heard by a majority of the trading crowd is also rooted in Phlx Rules 707, 155 and 1063, and is also intended to maximize order interaction. The Phlx notes that the proposal's intent is similar to that of Phlx Rule 1063(a) and Advice C-1, which require that a Floor Broker, prior to executing an order, ascertain that at least one Registered Options Principal ("ROT") is present in the trading crowd.⁴ ROT presence is intended to

confirm pricing, prevent errors, and witness specialist-Floor Broker activity. The proposal should also promote an orderly environment, where Floor Brokers choose their crowd positioning centrally to comply with the requirement, and prevent unnecessary roughness and disorderly behavior by crowd participants attempting to hear a Floor Broker.

The proposed rule change is designed to preserve and enhance auction market principles and the process of representing orders by open outcry, which is integral to exchange options trading. As stated previously, the proposal should ensure that Floor Brokers are heard. This, in turn, should help prevent errors by allowing verification of market quotes and orders by other crowd participants. As with paragraph (a), proposed paragraph (b) should prevent fraudulent and manipulative activity. The Exchange believes that expressly codifying these requirements into an Advice should help deter such activity, due to the potential imposition of fines for minor infractions. The Exchange believes that the proposal is appropriately codified into Advice C-7, which deals with Floor Broker responsibilities, and, more specifically, with representing orders in the trading crowd. Furthermore, the Exchange believes that the new requirement is appropriate for the minor rule plan, because it involves actions that are objective and easily verifiable. The reference in the fine schedule to infractions of paragraph (a) being referred to the BCC is intended to bolster the distinction between provisions subject to fines and those referred directly to BCC; it does not imply that violations of paragraph (a) cannot result in fines or disciplinary action.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 6(b) of the Act⁵ and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act⁶ in that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing

1986), 51 FR 21430 (June 12, 1987) (SR-PHLX-86-11).

⁵ 15 U.S.C. 78f(b). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

² The Phlx's minor rule plan, codified in Phlx Rule 970, contains floor procedure advice, such as Advice C-7, with accompanying fine schedules. Rule 19d-1(c)(2) authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting; Rule 19d-1(c)(1) requires prompt filing with the Commission of any final disciplinary actions. However, minor rule violations not exceeding \$2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

³ Securities Exchange Act Release No. 24309 (April 7, 1987), 52 FR 11894 (April 13, 1987) (SR-PHLX-86-49).

⁴ Prior to the adoption of a minor rule plan, this requirement appeared in Phlx Rule 1014.06. Securities Exchange Act Release No. 23296 (June 4,

information with respect to, and facilitating transactions in securities, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public. Specifically, the Commission finds that the proposal promotes just and equitable principles of trade in that it enhances the ability of Floor Officials to ensure that Floor Brokers represent their orders to the trading crowd in a manner that maximizes order interaction and preserves auction market principles.

The Commission recognizes that the proposal can be fairly implied in existing standards of the Exchange, including Rules 110, 707, 155, and 1063, as described above. Floor officials already have the authority to determine that an order has been clearly communicated. Nevertheless, the Commission concurs with the Exchange that by incorporating the requirements of the proposal into the minor rule violation plan, Floor Officials will be better equipped to facilitate an orderly market, to prevent errors by allowing verification of market quotes and orders by other crowd participants, and to prevent fraudulent and manipulative acts. Furthermore, the Commission concurs with the Exchange that the new requirement is appropriate for the minor rule plan, because it involves actions that are objective and easily verifiable.

Finally, the Commission notes that by including certain provisions of Exchange Rules into Advice C-7, the Exchange is not implying that all violations of Advice C-7 are minor in nature. Rather, as with many other important, substantive provisions in Exchange rules that are codified into advices, this system merely allows for the efficient handling of minor violations. Any violation of the procedure which has been deemed serious by the Phlx will be referred directly to the Exchange's Business Conduct Committee where stronger sanctions may result. As the Phlx notes, however, this language does not affect the other floor procedure advices administered pursuant to the plan which do not specifically contain this statement; infractions cited pursuant to the plan are minor in nature regardless of whether this specific language was added to the advice.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-PHLX-97-42) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-3119 Filed 2-6-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39610; File No. SR-PHLX-97-52]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Options Trading Rotations

February 2, 1998.

I. Introduction

On October 23, 1997, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposal to modify its rules governing options trading rotations.³ The proposed rule change was published for comment in the **Federal Register** on November 24, 1997.⁴ No comments were received regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The PHLX proposes to make several changes to its rules governing options trading rotations. First, the PHLX proposes to amend paragraph (a) of Exchange Rule 1047, "Trading Rotations, Halts and Suspension," to clarify that opening rotations for equity option contracts, unlike closing rotations, are conducted daily.⁵

Second, the PHLX proposes to replace references to "the Exchange" with references to "two Floor Officials, with the concurrence of a Market Regulation officer" throughout PHLX Rule 1047; in paragraphs (a)(ii), (c), (d), and (f), of PHLX Rule 1047A. "Trading Rotations, Halts or Reopenings;" and in Floor Procedure Advice ("Advice") G-2, "Trading Rotations, Halts or Re-

openings,"⁶ in order to specify the approval required to implement options trading halts, modified trading rotations, and other procedures. For example, PHLX Rule 1047(b), as amended, will require the halt or suspension of trading in option contracts whenever two floor officials, with the concurrence of a PHLX market regulation officer, deem such action appropriate in the interest of a fair and orderly market and to protect investors. The PHLX believes that trading rotations present the types of issues and the need for prompt determinations that are particularly suited to floor official approval. In addition, the PHLX believes that requiring the concurrence of a PHLX market regulation officer will help to ensure proper notification of the approval and allow Exchange staff to better monitor the conditions giving rise to rotation-related floor official approval.

Third, the PHLX proposes to delete from PHLX rule 1047, Commentary .01(a) and (d) provisions stating "if both puts and calls covering the same underlying security *** are traded ***." The PHLX believes that this language may be confusing because both puts and calls trade on almost all PHLX options. The PHLX also proposes to add the language "except as provided below" to Commentary .01(a) to emphasize that Commentary .01(b) contains exceptions to the normal opening rotation procedures.

Fourth, the PHLX proposes to amend Commentary .01(b) to define modified, reverse and shotgun rotations.⁷ Specifically, the PHLX proposes to amend Commentary .01(b) by adding paragraph (i), which will: (1) Define a shotgun rotation as opening rotation where each option series opens in the same manner and sequence as during a regular trading rotation,⁸ but is permitted to freely trade once all option series with the same expiration month have been opened;⁹ (2) state that modified rotations include reverse and shotgun rotations; and (3) define a reverse rotation as an opening rotation

⁶ Advice G-2 does not contain a fine schedule. Accordingly, the proposal does not affect the Exchange's minor rule violation enforcement and reporting plan.

⁷ Because PHLX Rule 1047A(b) allows specialists to conduct a rotation in accordance with PHLX Rule 1047, Commentary .01(b) and (c), the proposed amendments to Commentary .01(b) and (c) also will apply to index options trading.

⁸ PHLX Rule 1047, Commentary .01(a) describes a regular trading rotation as opening the series with the nearest expiration, proceeding to the next most distant expiration, and so forth, until all series have been opened.

⁹ This definition currently describes a modified rotation.

⁸ 17 CFR 200-30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A trading rotation is a series of brief time periods during which bids, offers and transactions can be made only in specified series.

⁴ See Securities Exchange Act Release No. 39332 (November 17, 1997), 62 FR 62652.

⁵ Closing rotations in equity options are conducted only at expiration.

⁷ 15 U.S.C. 78s(b)(2).