

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁵ and pursuant to Rule 19b-4 (e)(2)⁶ thereunder because the proposal establishes or changes a due, fee, or other charge imposed by NSCC. At any time within sixty 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, 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 in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 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-98-16 and should be submitted by February 22, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40963; File No. SR-Phlx-98-42]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Increasing Maximum OTX AUTO-X Order Size Eligibility

January 22, 1999.

I. Introduction

On October 6, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to 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 proposed rule change to amend Phlx Rule 1080 increasing to 100 contracts the maximum order size for eligibility for public customer market and marketable limit orders for OTC Prime Index ("OTX") options contracts to be executed on AUTO-X, the automatic execution feature of the Phlx's Automated Options Market ("AUTOM") system. Notice of the proposed rule change appeared in the **Federal Register** on December 23, 1998.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposed to amend Phlx Rule 1080 to increase the maximum order size for eligibility for public customer market and marketable limit orders for OTC⁴ options contracts to be executed on AUTO-X. AUTO-X is the automatic execution feature of AUTOM, the Phlx's electronic order routing, delivery, and reporting system for options. Orders are routed from member firms directly to the appropriate specialist on the Phlx's trading floor. Certain orders are eligible for AUTOM's automatic execution feature, AUTO-X. These AUTO-X orders are automatically executed at the disseminated quotation price on the Exchange and reported to the originating firm. Those orders not eligible for AUTO-X are manually

handled by the specialist. The Phlx proposed to increase the maximum order size eligible for AUTO-X from 50 to 100 contracts.

III. Discussion

After careful review, 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.⁵ The Commission believes the proposal is consistent with the requirements of Sections 6 and 11A of the Act⁶ in general, and in particular, with Sections 6(b)(5) and 11A(a)(1)(C)(i) of the Act.⁷ The Commission notes that the development and implementation to date of the AUTOM system has provided for more efficient handling and reporting of orders in PHLX equity and index options through the use of new data processing and communications techniques, thereby improving order processing and turnaround time. At this time, the Commission consents to extending the benefits available through the use of an automated system to larger-size customer OTX options orders of up to 100 contracts.

Public customers may benefit from the proposal because public customer orders for up to 100 OTX option contracts may be executed automatically and guaranteed by the specialist at the displayed market quote. Additionally, public customers will have the benefit of receiving immediate executions and nearly instantaneous confirmations for orders of up to 100 contracts. The Commission also believes, based on representations by the Exchange, that expanding the order eligibility size of OTX AUTO-X options to 100 contracts will not expose the Phlx's AUTOM system to risk of failure or operational break-down. The Commission believes that the proposed rule change is consistent with section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade and to facilitate transactions in securities, as well as to protect investors and the public interest, by extending the benefits of AUTO-X to a larger number of customer orders. Further, the proposal is consistent with Section 11A(a)(1)(C)(i) of the Act because increasing the maximum OTX option order size eligible for automatic execution should provide for more efficient handling and reporting of

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 40802 (December 17, 1998), 63 FR 71183 (December 23, 1998).

⁴ The OTC Prime Index is composed of the fifteen stocks which had the largest trading volume on the Nasdaq during the preceding year. See Securities Exchange Act Release No. 40058 (June 2, 1998), 63 FR 31543 (June 9, 1998).

⁵ In approving this rule, the Commission 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 and 78k-1.

⁷ 15 U.S.C. 78f(b)(5) and 78k-1(a)(1)(C)(i).

⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

⁶ 17 CFR 240.19b-4(e)(2).

⁷ 17 CFR 200.30-3(a)(12).

orders, thereby promoting the economically efficient execution of transactions.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-PHLX-98-42) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40970; File No. SR-PHLX-98-44]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Amend Exchange Rule 1080 To Permit Automatic Execution of U.S. Top 100 Index Options Orders for the Accounts of Broker-Dealers

January 25, 1999.

I. Introduction

On October 20, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder.² In its proposal, the Phlx seeks to allow automatic execution of broker-dealer orders in U.S. Top 100 Index ("TPX") options through the Phlx's AUTO-X system. Notice of the proposal was published in the **Federal Register** on November 23, 1998.³ The Commission received no comments on the proposal. This order approves the proposal.

II. Description of the Proposal

AUTOM is Phlx's electronic order routing system for options orders. Until 1995, only public customer orders were eligible for routing through AUTOM.⁴ For purposes of AUTOM eligibility, public customer orders do not include any order entered for the account of a broker-dealer or any account in which a

broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. In 1995, however, the Commission approved the Exchange's proposal to route Phlx member and non-member broker-dealer orders for TPX options through AUTOM.⁵ The Phlx limits AUTOM routed public customer and broker-dealer TPX orders to 500 contracts.⁶ Currently, when a broker-dealer TPX order is entered into AUTOM, the order is executed manually by the specialist.

AUTO-X is a feature of AUTOM that automatically executes public customer orders. AUTO-X currently is limited to public customer orders. AUTO-X orders are executed automatically at the disseminated quotation price on the Exchange and reported to the originating firm. Presently, public customer orders for up to 50 contracts can be automatically executed through AUTO-X.⁷

The Phlx seeks to amend Rule 1080 to allow broker-dealer orders for TPX options contracts to be automatically executed through AUTO-X. In making this change, the Phlx will still limit the size of orders that can be automatically executed through AUTO-X to 50 contracts. The Phlx believes that the change will help attract more broker-dealer orders in TPX options. According to the Phlx, TPX options appeal more to broker-dealers because these options are high-priced.⁸ Further, the Phlx believes that permitting broker-dealer TPX orders to be executed via AUTO-X will allow broker-dealers to benefit from prompt and efficient automatic execution and reporting.

III. Discussion

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.⁹ Specifically, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act,¹⁰ which requires that the rules of an Exchange be designed to promote just and equitable principles of trade, foster cooperation

and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Moreover, the Commission believes that the proposal is consistent with section 11A(a)(1)(C)(i) of the Act,¹¹ stating Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure economically efficient execution of securities transactions.

The Commission believes that allowing broker-dealers to use AUTO-X for TPX options orders may facilitate the efficient handling and reporting of broker-dealer orders in TPX options, thereby improving TPX order processing and turnaround time. In addition, by providing prompt execution for broker-dealer TPX orders, the proposal may help to attract broker-dealer TPX orders, and thus help to improve the depth and liquidity of the market for TPX options.

The Phlx has represented to the Commission that the Exchange anticipates that its systems are capable of processing potential resulting increased order flow through the AUTO-X system and that public customer TPX orders will continue to be executed efficiently through the AUTO-X system.¹² According to the Exchange, TPX options appeal more to broker-dealers because these options are high-priced relative to other options.¹³ The Commission believes that it is reasonable for the Phlx to allow automatic execution of broker-dealer orders in TPX option contracts as long as retail customers are not adversely affected. The Commission anticipates that the Exchange will monitor its AUTO-X system in light of the addition of broker-dealer TPX orders and will implement necessary systems enhancement should they be necessary to accommodate any increase in volume resulting from this proposal.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-PHLX-98-44) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

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¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 40681 (Nov. 16, 1998), 63 FR 64751 (File No. SR-PHLX-98-44).

⁴ See Securities Exchange Act Release No. 36429 (Oct. 27, 1995), 60 FR 55874 (Nov. 3, 1995) (File No. SR-PHLX-95-35) (order approving the Phlx's proposal seeking to route broker-dealer TPX options orders through AUTOM).

⁵ Pursuant to Phlx Rule 1080(b)(i), with the exception of orders for TPX options contracts, broker-dealer orders are not eligible for AUTOM.

⁶ Phlx Rule 1080(b)(ii).

⁷ Phlx Rule 1080(c).

⁸ See letter from Richard Rudolph, Counsel, Phlx, to Joe Corcoran, Attorney, Division of Market Regulation, Commission, dated December 22, 1998 ("Phlx Letter"). According to the Phlx, the average price for a TPX option contract during the third quarter of 1998 was \$4,165.62.

⁹ 15 U.S.C. 78f and 78k-1.

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78k-1(a)(1)(C)(i).

¹² See Phlx Letter, *supra* note 8.

¹³ *Id.*

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).