

and above, regardless of monthly volume, transaction fees will be reduced by 30% in all index products.

In addition, the Exchange proposes to eliminate all booth variable fees. These fees have significantly declined in recent years, mostly due to firm consolidations and increased volume.

The proposed amendments are the product of the Exchange's annual budget review. The amendments are structured to fairly allocate the costs of operating the Exchange in the event that the Exchange experiences higher volume. In addition, although the proposed rule change provides that the Exchange's Fee Reduction Program and the Exchange's Index Customer Large Trade Discount Program will terminate at the end of the Exchange's 2001 fiscal year, the Exchange intends to evaluate these Programs prior to the beginning of the 2002 fiscal year and may renew these Programs in the same modified form for the 2002 fiscal year.<sup>4</sup>

## 2. Statutory Basis

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

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

The Exchange does not believe that the proposed rule change will impose any 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.

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

Because the foregoing rule change establishes our changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii)<sup>7</sup> of the Act and subparagraph (f)(2) of Rule 19b-4

thereunder.<sup>8</sup> 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, NW., Washington, DC 20549-0609. 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. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR-CBOE-00-24 and should be submitted by September 7, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43143; File No. SR-NYSE-00-29]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Revisions to the Floor Conduct and Safety Guidelines**

August 10, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 27, 2000, the New York Stock Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. 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 proposed rule change consists of an amendment to the Exchange's Floor Conduct and Safety Guidelines (the "Guidelines") with respect to policies and procedures on: employment of clerical personnel, entering or crossing the Trading Floor, surrender of Exchange-issued Visitor's passes, handling violations of the Guidelines, and harassment. The Guidelines are a "stated policy, practice or interpretation" concerned with the administration of Exchange Rules 35 and 37.

### **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 Exchange 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 Exchange 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, the Proposed Rule Change*

##### 1. Purpose

The purpose of the Exchange's Guidelines is to ensure that the behavior and practices of individuals on the Floor of the Exchange contribute to the efficient, undisrupted conduct of business on the Floor and to not jeopardize the safety or welfare of others. The proposed rule change enables the Exchange to keep its Guidelines consistent with current and new Exchange policy and procedures.

<sup>4</sup> The Commission notes and the Exchange acknowledges that it would be required to file a proposed rule change pursuant to Section 19(b) of the Act before renewing or modifying these programs. Telephone conversation between Jamie Galvan, Attorney, CBOE, and Geoffrey Pemble, Attorney, Division of Market Regulation, Commission (July 20, 2000).

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(34)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>9</sup> 17 CFR 200.30-(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1)

<sup>2</sup> 17 CFR 240.19b-4.

#### a. Employment of Clerical Personnel

The proposed rule change provides that temporary floor employees are subject to the same registration and clearance requirements as all other Floor employees. The current standard applicable to temporary clerks employed less than six weeks, which requires obtaining an access control card for the period requested from the ID Card Office, has been deleted.

In addition, the proposed rule change provides that members and member organizations that permit an employee to work on the floor using a visitor's badge may also be subject to disciplinary action by the Exchange. Visitor's badges are not acceptable identification cards for temporary Floor employees. The above changes will conform the Guidelines to Exchange Rule 35. Failure to comply with the above requirements will subject the member or member organization to a \$1,000 fine.

#### b. Entering or Crossing Trading Floor

The proposed rule change conforms the Guidelines to Exchange Rule 35.20. The latter states that "Floor employees of members and member organizations are not allowed to be upon or to cross the trading area of the Floor for any purpose during the period between ten minutes preceding the opening of the market and five minutes following the close of the market." The current Guidelines permit Floor employees to be upon or to cross the trading area of the Floor during the period between fifteen (15) minutes prior to the opening and five (5) minutes after the close of business.

#### c. Surrender of Exchange-issued Visitor's Pass

The proposed amendments establish a single, consistent category of officials qualified to grant Floor access to visitors to include Officers of the Exchange, Senior Floor Officials, Floor Governors, and Floor Directors. "Senior Floor Officials" have been included since they are all former Floor Directors or Floor Governors.<sup>3</sup> The current Guidelines require approval from either a Floor Director or a Governor in order for a visitor to gain access to the Floor between 10 a.m. and 3:30 p.m.

In addition, the current Guidelines indicate that Members "should" accompany their guest throughout their entire visit to the Floor and "should avoid all active crowds." The proposed

amendments would require that a "Member or properly designated Listed Company Relations person or Customer Relations person *must* accompany them [visitors] throughout their visit taking particular care to avoid escorting them through highly active areas (including active crowds and fringe area of activity)."

The proposed amendment also adds a caveat to the Guidelines that failure to comply with them may subject a member to a fine or other disciplinary action.

An additional proposed amendment to the Guidelines indicates that 30 minutes prior to and after the opening and 30 minutes prior to closing, an Exchange Officer's or a Floor Director's (or Senior Floor Official or Floor Governor in Floor Directories' absence) approval must be obtained in order for visitors to be admitted to the Floor. The current Guidelines indicate that approval of a Floor Director or Senior Floor Governor in Floor Directors' absence is required to bring guests onto the Floor during this time period.

#### d. Procedures for Handling Violations

The proposed amendments clarify that the reporting of routine violations of the Guidelines should now be made to Market Surveillance via the White Phone or to the new Trading Floor Liaison Unit. The White Phones enable Floor Officials to directly contact management of Market Surveillance who can then expeditiously respond to requests for rule interpretations. The current Guidelines indicate that the Market Surveillance Division should be contacted by telephone to report the violation.

#### e. Exchange Policy Concerning Harassment

The proposed amendments reflect the broader Exchange policy concerning harassment adopted by the Exchange in December 1998. The current Guidelines discuss what behavior constitutes sexual harassment. The proposed amendment broadens the definition of harassment to include verbal or physical conduct that denigrates or shows hostility or aversion toward an individual based on the following characteristics: race, color, religion, sex, sexual orientation, national origin, age, disability, marital status, citizenship, predisposition to, or status as a carrier of, a genetic condition, or any other characteristic protected by law. In addition, the harassment must (a) have the purpose or effect of creating an intimidating, hostile, or offensive work environment; (b) have the purpose or effect of unreasonably interfering with

an individuals' work performance; or (c) otherwise adversely affect an individuals' employment.

The proposed amendments to the current Guidelines also prohibit retaliation against any person who makes a report of harassment or discrimination, or who participates in an investigation of such a report. Furthermore, the amended Guidelines would apply to all Exchange employees, other persons on Exchange premises (Exchange members), employees of Exchange members and member organizations who work on the Trading Floor, persons whose services are temporarily utilized by the Exchange, a member or member organization, and persons not directly related to the Exchange who may visit the trading Floor (*i.e.*, a vendor, consultant, customer or guest.)

#### 2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>4</sup> that an Exchange have rules that are designed to facilitate transactions in securities and remove impediments to and perfect the mechanism of a free and open market. The revisions to the Guidelines support these goals by promoting the efficient, undisrupted conduct of business on the Trading Floor.

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

The Exchange 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

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

This proposed rule change will take effect immediately on filing with the Commission pursuant to Section 19(b)(3)(A)(i) of the Act.<sup>5</sup> This proposed rule change is a "stated policy, practice or interpretation" concerned with the administration of Exchange Rules 35 and 37. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily

<sup>3</sup> Under separate cover, the Exchange proposed an amendment of Rule 37 ("Visitors") consistent with the above. See Securities Exchange Act Release No. 42990 (June 28, 2000), 65 FR 42052 (July 7, 2000).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(i).

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 proposed rule change. 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 Room in 450 Fifth Street, NW., Washington, DC 20549-0609. 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-NYSE-00-29 and should be submitted by September 7, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43145; File No. SR-PHLX-00-35]

#### Self Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Increase in the Maximum Size of Options Orders Eligible for Delivery Through the Automated Options Market System

August 10, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 10,

2000, 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, II and III below, which Items have been prepared by the Phlx. 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 proposes to change the text of Phlx Rule 1080(b)(ii) to reflect an increase in the maximum order size for the delivery of option orders through its Automated Options Market ("AUTOM") System. Currently, orders up to 500 contracts are permissible for delivery through AUTOM. The Exchange is proposing to increase the maximum order size to 1,000 contracts.

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

In its filing with the Commission, the Phlx 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 Phlx 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, the Proposed Rule Change

###### 1. Purpose

AUTOM is the Exchange's electronic order routing, delivery, execution and reporting system for equity and index options. Orders are routed from member firms directly to the appropriate specialist on the Exchange's trading floor. AUTOM orders of 50 contracts or fewer are currently eligible for AUTO-X, the automatic execution feature of AUTOM. These AUTO-X orders are executed automatically at the disseminated quotation price on the Exchange and reported to the originating firm. Those orders that are not eligible for AUTO-X are handled manually by the specialist. The current proposal does not affect AUTO-X order size eligibility.

The Exchange proposes to increase the maximum eligible size of AUTOM orders from 500 to 1,000 contracts. This change is intended to extend the use of

the AUTOM system to larger sized orders, which would provide more efficient order handling and processing for those orders. The Exchange notes that the maximum AUTOM order size has remained the same since 1995, when it increased from 100 to 500 contracts.<sup>3</sup>

In light of the Phlx's experience with AUTOM over the past five years, during which the maximum AUTOM order size has been 500 contracts, the Exchange believes that it is appropriate, at this time, to increase the maximum size of the option orders eligible for routing and delivery through AUTOM to 1,000 contracts. The Phlx states that the AUTOM system has the capacity to operate with a maximum order size of 1,000 contracts without adversely affecting the functioning of AUTOM and AUTO-X.

###### 2. Statutory Basis

The Phlx believes that the proposal is consistent with Section 6(b)(5) of the Act<sup>4</sup> in that it is designed to promote just and equitable principles of trade and to prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest by extending the benefits of AUTOM, including prompt and efficient order handling, to orders for up to 1,000 contracts. The Phlx believes that the proposal should also further increase efficiency through automation from order delivery to execution to reporting, as these orders may currently be delivered by floor brokers.

##### 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

No written comments were either solicited or received.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>5</sup> and Rule 19b-4(b)(f)(6) thereunder<sup>6</sup> because the proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does

<sup>3</sup> See Securities Exchange Act Release No. 35782 (May 30, 1995), 60 FR 109 (June 7, 1995).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.