

The proposed rule change also would require the person responsible for trade allocation in each trade (the "Allocating Participant") to circle his or her badge identification number on the trade tickets, thereby identifying him or herself as the Allocating Participant in the particular trade.<sup>13</sup> If the Allocating Participant is not a participant in the trade (such as where a Floor Broker delegated responsibility for allocation to the specialist), the Allocating Participant would be required to identify him or herself by initialing the trade tickets.<sup>14</sup>

The purpose of adopting new subparagraph (vi) of rule 1014(g) is to codify Advice F-2 expressly into Exchange rules. Certain advices are merely restatements of Phlx rules, codified into Floor Procedure Advices, not just because they may have an associated fine schedule as part of the minor rule plan, but also for the convenience of members on the trading floor.<sup>15</sup>

The Exchange believes that the proposed fine schedule is appropriate, in light of the low level of the existing fines (with a first violation resulting in a fine of merely \$100), and the importance of the trade allocation function. The Exchange has recently increased most of its minor rule plan fine schedules.<sup>16</sup> The Exchange is also proposing to adopt a separate fine schedule for paragraph (b) of Advice F-2, which deals with trade reporting, because the Exchange intends to administer its surveillance and enforcement of that provision separately.<sup>17</sup>

## 2. Statutory Basis

For these reasons, the Exchange believes that its proposal is consistent with section 6(b) of the Act<sup>18</sup> in general and section 6(b)(5)<sup>19</sup> in particular in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices and protect investors and the public interest by establishing a structure for determining who allocates

options trades that permits the floor broker, who would generally perform the allocation, to delegate this responsibility to the specialist. Thus, the provision should promote prompt and accurate trade allocations, which in turn facilitates prompt trade reporting.

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

The Exchange 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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 in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal offices of the Phlx. All submissions should refer to File No.

SR-Phlx-2001-28 and should be submitted by April 15, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>20</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47499; File No. SR-Phlx-2001-39]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, 3, 4, 5, and 6 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Allocation of Trades

March 13, 2003.

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 March 12, 2001, 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 Phlx. On May 11, 2001, February 19, 2002, May 22, 2002, November 19, 2002, December 16, 2002, and February 25, 2003, Phlx submitted Amendment Nos. 1, 2, 3, 4, 5, and 6 to the proposed rule change, respectively.<sup>3</sup> The Commission is publishing this

<sup>20</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.

<sup>3</sup> See letters from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 10, 2001 (Amendment No. 1), February 15, 2002 (Amendment No. 2), May 21, 2002 (Amendment No. 3), November 18, 2002 (Amendment No. 4), December 12, 2002 (Amendment No. 5), and February 24, 2003 (Amendment No. 6). The proposal, File No. SR-Phlx-2001-39, originally was filed to be immediately effective pursuant to section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A). In Amendment No. 1, Phlx amended the status of the proposed rule change to be filed pursuant to section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), and requested accelerated effectiveness. In Amendment No. 2, Phlx consolidated a companion proposal, File No. SR-Phlx-2001-29, with the instant proposal to become a single proposed rule change and made several modifications. Phlx made additional changes to the rule text in Amendment No. 3 and, in Amendment No. 4, Phlx amended and restated the proposed rule change in its entirety. In Amendment No. 5, Phlx made revisions to clarify that all customer orders would be executed prior to the participation of the specialist and to delete references to Phlx rule 1064. In Amendment No. 6, Phlx made minor corrections to the rule text and narrative section of the proposal.

<sup>13</sup> See Amendment No. 2.

<sup>14</sup> See Amendment No. 3.

<sup>15</sup> The advices were historically printed in pocket-sized versions for trading floor use. See, e.g., Advice B-6 and Phlx rule 1014(g)(ii) and Advice A-11 and Phlx rule 1015.

<sup>16</sup> See Securities Exchange Act Release No. 44537 (July 11, 2001), 66 FR 37511 (July 18, 2001) (SR-Phlx-2001-36).

<sup>17</sup> The Commission notes that the proposed fine for a third violation of paragraph (b) of Advice F-2 would be \$2,500, in contrast to the proposed fine of \$2,000 for a third violation of other provisions of Advice F-2.

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).