

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁴

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47543; File No. SR-Phlx-2003-11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Delivery of Immediate or Cancel Orders Via AUTOM and an Increase in the AUTOM Order Delivery Size for Off-Floor Broker-Dealer Orders

March 20, 2003.

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 March 10, 2003, 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 Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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 proposes to amend Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X),⁵ to add a new eligible order

type, Immediate or Cancel ("IOC"), for delivery by both customers and broker-dealers. The Exchange also proposes to amend Exchange Rule 1080(b)(i)(C) to reflect that the Options Committee has determined to increase the eligible AUTOM order delivery size for off-floor broker dealer orders from 200 contracts to 1,000 contracts for all options.⁶

The text of the proposed rule change is set forth below. Proposed new language is underlined; proposed deletions are in brackets.

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Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X)

Rule 1080. (a) No change.

(b) Eligible Orders

(i) The following types of orders are eligible for entry into AUTOM:

(A) Agency orders up to the maximum number of contracts permitted by the Exchange may be entered. Agency orders up to 1000 contracts, depending on the option, are eligible for AUTOM order delivery, subject to the approval of the Options Committee. The following types of agency orders are eligible for AUTOM; day, GTC, *Immediate or Cancel* ("IOC"), market, limit, stop, stop limit, all or none, or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, market close, market on opening, limit on opening, limit close, and possible duplicate orders.

(B) No change.

(C) Off-floor broker-dealer limit orders, up to the minimum number of contracts permitted by the Exchange, subject to the restrictions on order entry set forth in Commentary .05 of this Rule. Generally, orders up to [200] 1,000 contracts, depending on the option, are eligible for AUTOM order delivery on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee may determine to increase the eligible order delivery size to an amount greater than [200] 1,000 contracts, on an issue-by-issue basis. The following types of broker-dealer limit orders are eligible for AUTOM: day, GTC, *IOC*, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order.

(ii)-(iii) No change.

⁶ The Exchange represents that this proposal will have no impact on AUTO-X. Telephone call among Rick Rudolph, Director and Counsel, CBOE; Terri Evans, Assistant Director, Division of Market Regulation ("Division"), Commission; and Jennifer Lewis, Attorney, Division, Commission, on March 20, 2003.

(c)-(j) No change.

Commentary: No change.

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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

Phlx represents that the purpose of the proposed rule change is to increase the automated handling of options orders, and attract additional order flow, by allowing customers and broker-dealers to deliver Immediate or Cancel ("IOC")⁷ orders via AUTOM, amending the rule to reflect that the Exchange's Options Committee⁸ has determined to increase the eligible AUTOM delivery size of off-floor broker-dealer orders⁹ from 200 contracts to 1,000 contracts for all issues.

IOC Orders. Exchange Rule 1080(b)(i)(A) lists the various types of agency orders¹⁰ that are eligible for

⁷ An "IOC" order means a limit order that is to be executed in whole or in part as soon as such order is received, and the portion not executed, if any, is immediately canceled.

⁸ The Exchange's Options Committee has general supervision of the dealings of members on the equity and index options trading floor, and shall make or recommend such rules as it may deem necessary for the convenient and orderly transaction of business upon the equity and index options trading floor. See Exchange By-Law Article X, Section 10-19.

⁹ In April, 2002, the Commission approved a proposed rule change to allow the delivery of orders for the account(s) of off-floor broker-dealers via AUTOM on a six-month pilot basis (the "pilot"). See Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002) (SR-Phlx-2001-40). The pilot was approved on a permanent basis in October, 2002. See Securities Exchange Act Release No. 46660 (October 15, 2002), 67 FR 64951 (October 22, 2002) (SR-Phlx-2002-50).

¹⁰ The Exchange has defined an agency order as any order entered on behalf of a public customer, and does 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. See, e.g., Exchange Rule 229.02. See also, Securities

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²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO-X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. See Exchange Rule 1080.