

a given option once the number of contracts automatically executed exhausts the specified disengagement size for that option within a 15-second time frame.

The Exchange believes that this has enabled specialists in such options to continue to provide fair and orderly markets during peak market activity by manually executing orders at correct market prices and refreshing quotations to reflect market demand.

Finally, the Exchange represents that,²⁰ if the quotation in the option series that exhausts the specified disengagement size is revised (either by Auto-Quote or manually by the specialist) prior to the expiration of the 30-second period during which AUTO-X is disengaged, AUTO-X will automatically re-engage for that option upon such revision. If the quotation in such an option series is not revised during the 30 second period during which AUTO-X is disengaged, the responsible broker or dealer is firm for the disseminated price, up to the disseminated size, pursuant to Exchange Rule 1082. In such a circumstance, AUTO-X is reengaged automatically after 30 seconds. The Exchange currently engages in surveillance for occurrences in which responsible brokers or dealers do not comply with the Firm Quotation requirements of Exchange Rule 1082, including during the 30-second AUTO-X disengagement period that is the subject of this proposed rule change.²¹

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²² in general, and furthers the objectives of Section 6(b)(5) of the Act,²³ in particular, in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest and promote just and equitable principles of trade by enabling the Exchange to prepare for the dissemination of option quotes with actual size, and by enabling Exchange specialists.

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. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2003-29 and should be submitted by June 30, 2003.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

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.²⁴ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act, which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national securities system, and protect investors and the public interest.²⁵

²⁴ In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²⁵ 15 U.S.C. 78f(b)(5).

The Commission believes that the extension of the pilot should assist specialists in maintaining fair and orderly markets during periods of peak market activity. In this regard, the Commission notes that since the previous extension of the pilot, in response to Commission concerns, the Exchange has automated the re-engaging of AUTO-X for a particular option issue prior to thirty seconds, if the specialist has revised the quote before that time period. The Commission believes that an extension of the pilot program for an additional six months should allow the Exchange to continue its efforts to deploy its new Auto-Quote system to prepare for the dissemination of quotes with actual size.

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,²⁶ for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission recognizes that, according to the Phlx, no complaints from customers, floor traders, or member firms have been received during the entire period of the pilot program. The Commission believes that granting accelerated approval to extend the pilot program for an additional six months will allow Phlx to continue, without interruption, the existing operation of its AUTO-X system.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,²⁷ that the proposed rule change (SR-Phlx-2003-29), as amended, is hereby approved on an accelerated basis, as a six-month pilot, scheduled to expire on November 30, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁸

Margaret H. McFarland,
Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3500]

State of Alabama; Amendment #3

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective May 30, 2003, the above numbered declaration is

²⁶ 15 U.S.C. 78s(b)(2).

²⁷ *Id.*

²⁸ 17 CFR 200.30-3(a)(12).

²⁰ See Amendment No. 1, note 3 *supra*.

²¹ The Commission notes that the Exchange has represented that it will issue a circular to its members, member organizations, participants, and participant organizations explaining the pilot program and the circumstances in which the AUTO-X system will not be available for customer orders. Telephone conversation between Richard S. Rudolph, Counsel, Phlx and Marc McKayle, Special Counsel, Division, Commission, on May 13, 2003.

²² 15 U.S.C. 78f(b).

²³ 15 U.S.C. 78f(b)(5).