

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁵ Specifically, the Commission believes the proposed rule change, as amended, is consistent with section 6(b)(5) of the Act,⁶ which requires, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to perfect the mechanism of a free and open market, and in general to protect investors and the public interest.

The Commission believes that the rule change should provide specialists with greater flexibility in their ability to use hedging transactions to offset market-making risk. By permitting specialists to use single stock futures to hedge their specialty stock positions, the Commission believes that the rule change should enable specialists to add to overall stock market liquidity by taking specialty stock positions they might not otherwise assume or by reducing risks on positions they are required to assume.

The Commission is accelerating approval of Amendment No. 1 to the proposed rule change. Amendment No. 1 made technical corrections and certain other minor changes to the proposed rule change. The Commission believes that the changes included in Amendment No. 1 should not affect the substance of the rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,⁷ the Commission finds good cause to approve Amendment No. 1 prior to the thirtieth day after notice of the Amendment is published in the **Federal Register**.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether Amendment No. 1 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 also will be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-2002-63 and should be submitted by September 5, 2003.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NYSE-2002-63) is approved, and Amendment No. 1 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48310; File No. SR-Phlx-2002-85]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, by the Philadelphia Stock Exchange, Inc. Relating to the Definition of a Wheel Assignment Area

August 8, 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 December 20, 2002, 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 Exchange. The Phlx submitted Amendment No. 1 to the proposed rule change on July 28, 2003.³ The Commission is publishing

this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Option Floor Procedure Advice ("OFPA") F-24, AUTO-X Contra-Party Participation (The Wheel), to redefine a "Wheel Assignment Area," based on the current configuration of the Exchange Options Floor. The text of the proposed rule change is set forth below. Proposed new language is in italics. Proposed deletions are in brackets.

* * * * *

F-24 AUTO-X Contra-Party Participation (The Wheel)

(a)-(b) No change.

(c) Participation Requirements and Sign-on/off—Specialists on the Options Floor are required to participate on the Wheel in assigned issues in accordance with paragraph (e) of this Advice.

(i) *An ROT[s] may elect to participate on the Wheel for any or all [issues] options which such ROT [they] maintains an ROT assignment, as long as such [those listed] options are located within the Wheel Assignment Area (as defined below) for the crowd in which such ROT participates, [within two contiguous quarter turrets of each other] and the ROT is actively making markets in the specific [issues] options traded within such Wheel Assignment Area.*

(ii) No two associated or dually affiliated ROTs may be on the Wheel for the same option at the same time. Regardless of [an ROT's] *the total number of options assigned to an ROT [issues], an ROT may only sign-on the Wheel in one Wheel [a]Assignment [a]Area at any given time.*

(iii) For [the] purposes of this Advice, a Wheel [a]Assignment [a]Area is [each area on the trading floor constituted by two contiguous quarter turrets] *a location on the trading floor where an ROT: (1) Is actively making markets by quoting continuous, 2-sided markets in compliance with Advice B-1 and Rule 1014; (2) can hear and ascertain the markets that are being made by the specialist and crowd; (3) is deemed to be quoting the disseminated markets being made by the specialist in accordance*

proposed rule change by clarifying the proposed definition of a "Wheel Assignment Area" set forth in paragraph (c)(iii) of OFPA F-24, AUTO-X Contra-Party Participation (The Wheel). The substance of Amendment No. 1 is incorporated into the description of the proposed rule change in Section II.A. below, and the proposed rule text set forth herein reflects the changes made in Amendment No. 1.

⁵ In approving the proposed rule change, the Commission has considered its impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(2).

⁸ Id.

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated July 25, 2003 ("Amendment No. 1"). In Amendment No. 1, the Phlx amended the