

Accelerating the operative date will allow the PCX to immediately implement rules similar to ones already in place at the American Stock Exchange LLC and the International Securities Exchange, Inc.,<sup>22</sup> and will simplify and clarify the process by which Members and Member Organizations accept exercise decisions from options holders and submit such decisions to the Exchange. For these reasons, the Commission designates the proposed rule change as effective and operative immediately. At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such proposed 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.<sup>23</sup>

#### IV. 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 PCX. All submissions should refer to File No. SR-PCX-2003-47 and should be submitted by November 13, 2003.

efficiency, competition, and capital formation.<sup>15</sup> U.S.C. 78c(f).

<sup>22</sup> See Securities Exchange Act Release Nos. 47885 (May 16, 2003), 68 FR 28309 (May 23, 2003) (SR-Amex-2001-92) and 48505 (September 17, 2003), 68 FR 55680 (September 26, 2003) (SR-ISE-2003-20).

<sup>23</sup> For purposes of calculating the sixty-day abrogation period, the Commission considers the period to commence on October 9, 2003, the date at which the Exchange filed Amendment No. 2.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>24</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48648; File No. SR-Phlx-2003-37]

### Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Delete the Prohibition Against the Delivery of Electronically Generated Orders Via AUTOM

October 16, 2003.

#### I. Introduction

On May 19, 2003, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), 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> a proposed rule change to delete Phlx Rule 1080(i) ("Rule"), which prohibits the delivery of electronically generated orders via Phlx's AUTOM system. Notice of the proposed rule change was published for comment in the **Federal Register** on June 11, 2003.<sup>3</sup> The Commission received two comments regarding the proposal—one from Interactive Brokers Group LLC ("IB") supporting the proposal ("IB Letter"), and the other from Susquehanna International Group LLP ("SIG") opposing the proposal ("SIG Letter")<sup>4</sup>. The Phlx submitted a response to the SIG Letter ("Phlx Response").<sup>5</sup>

This order approves the proposed rule change.

#### II. Description of the Proposal

The Exchange is proposing to delete the Rule, which prohibits the delivery of electronically generated orders, *i.e.*, orders that were created and

communicated electronically without manual input,<sup>6</sup> via AUTOM.<sup>7</sup> According to the Exchange, it has enhanced its AUTOM and AUTO-X systems so that the concerns the Rule was intended to address have been minimized. For example, the Exchange modified its Auto-Quote<sup>8</sup> system to enable the Exchange to disseminate a firm quotation size of at least the sum of limit orders at the Exchange's disseminated price.<sup>9</sup> The Exchange has also expanded the order types<sup>10</sup> and delivery sizes<sup>11</sup> eligible for AUTOM delivery and automatic execution via AUTO-X.

### III. Summary of Comments and Phlx's Response

#### 1. IB Letter

In its letter supporting the proposal, IB urged the Commission to approve the proposal because IB believes the Rule

<sup>6</sup> Specifically, the Rule required order entry to involve manual input such as entering the terms of the order into an order-entry screen or manually selecting a displayed order against which the off-setting order should be sent.

<sup>7</sup> 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, and 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. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor.

<sup>8</sup> Auto-Quote is the Exchange's electronic options pricing system, which enables specialists to automatically monitor and instantly update quotations.

<sup>9</sup> See Securities Exchange Act Release No. 46325 (August 8, 2002), 67 FR 53376 (August 15, 2002) (SR-Phlx-2002-15).

<sup>10</sup> In October 2002, the Commission permanently approved an Exchange pilot that allowed orders for the account(s) of broker-dealers to be delivered via AUTOM, and to be eligible for automatic execution via AUTO-X. See Securities Exchange Act Release No. 46660 (October 15, 2002), 67 FR 64951 (October 22, 2002) (SR-Phlx-2002-50). The Exchange then adopted rules providing for automatic executions for eligible orders at the Exchange's disseminated size, subject to a minimum and maximum eligible size range to be determined by the specialist, on an issue-by-issue basis. See Securities Exchange Act Release No. 46886 (November 22, 2002), 67 FR 72015 (December 3, 2002) (SR-Phlx-2002-39). Most recently, the Exchange adopted rules providing an equal firm quotation size and equal AUTO-X guaranteed size for both customer and broker-dealer orders. See Securities Exchange Act Release No. 47646 (April 8, 2003), 68 FR 17976 (April 14, 2003) (SR-Phlx-2003-18).

<sup>11</sup> In March 2003, the Exchange adopted rules to increase the eligible AUTOM order delivery size for off-floor broker-dealer orders from 200 contracts to 1,000 contracts for all options. At the same time, the Exchange determined to allow delivery of Immediate or Cancel orders via AUTOM. See Securities Exchange Act Release No. 47543 (March 20, 2003), 68 FR 14737 (March 26, 2003) (SR-Phlx-2003-11).

<sup>24</sup> 17 CFR 200.30-3(a)(29).

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

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

<sup>3</sup> Securities Exchange Act Release No. 47977 (June 4, 2003), 68 FR 35049.

<sup>4</sup> See letters to Jonathan G. Katz, Secretary, SEC, from David M. Battan, Vice President and General Counsel, IB, dated July 22, 2003; and Gerald D. O'Connell, Director of Compliance, SIG, dated July 9, 2003.

<sup>5</sup> See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Jonathan G. Katz, Secretary, SEC, dated October 6, 2003.